

SENATE

WEDNESDAY, JANUARY 26, 1944

(Legislative day of Monday, January 24, 1944)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Thou Shepherd of our souls who dost neither slumber nor sleep, we are the people of Thy pasture and the sheep of Thy hand: Make our hearts to hear Thy voice and answer to our name when Thou callest, so that no lurking peril may be able to pluck us out of Thy hand.

We come not asking Thee for the vain trifles we may want with our selfish desires but, rather, seeking to put ourselves in such relationship with Thee that Thou canst do in and for and through us what Thou dost want in this desperately needy generation. Lift us, we beseech Thee, above the pettiness of group pride. Deliver us from the shibboleths and prejudices of class and party. Strengthen us to endure with unwavering trust whatever of grief or loss or pain allegiance to our just cause may bring. Even in anxieties that wring our hearts, open our eyes to Thy purposes beyond this war. Keep us from the fatal sin of failing the cause we fight to save. Knowing that we are forgiven only as we forgive, may we fight without hatred, resist without bitterness, and at the end triumph, if Thou dost so grant, without vindictiveness. We ask it in the Name above every name. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, January 25, 1944, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, communicated to the Senate the resolutions of the House adopted as a tribute to the memory of Hon. Frederick Van Nuys, late a Senator from the State of Indiana.

The message announced that the House had passed a joint resolution (H. J. Res. 192) to enable the United States to participate in the work of the United Nations relief and rehabilitation organization, in which it requested the concurrence of the Senate.

NOTICE OF HEARING ON NOMINATION OF MARTIN TRAVIESO TO BE CHIEF JUSTICE, SUPREME COURT OF PUERTO RICO.

Mr. ANDREWS. Mr. President, as chairman of the subcommittee of the Committee on the Judiciary, and in accordance with the rules of the commit-

tee, I desire to give notice that a public hearing will be held on the 3d day of February 1944, at 10:30 a. m., in the Senate Judiciary Committee room, upon the nomination of Martin Travieso, of Puerto Rico, to be chief justice of the Supreme Court of Puerto Rico. At that time and place all persons interested in the nomination may make representations.

NOTICE OF HEARING ON NOMINATION OF HERMAN E. MOORE, OF ILLINOIS, TO BE JUDGE, DISTRICT COURT OF THE VIRGIN ISLANDS

Mr. ANDREWS. Mr. President, as chairman of the subcommittee of the Committee on the Judiciary, and in accordance with the rules of the committee, I desire to give notice that a public hearing will be held on the 3d day of February 1944, at 10:30 a. m., in the Senate Judiciary Committee room, upon the nomination of Herman E. Moore, of Illinois, to be judge of the District Court of the Virgin Islands of the United States. At that time and place all persons interested in the nomination may make representations.

NOTICE OF HEARING ON NOMINATION OF ANTHONY J. DIMOND TO BE UNITED STATES DISTRICT JUDGE, THIRD DIVISION OF ALASKA

Mr. MURDOCK. Mr. President, as chairman of the subcommittee of the Committee on the Judiciary, and in accordance with the rules of the committee, I desire to give notice that a public hearing will be held on the 5th day of February 1944, at 10:30 a. m., in the Senate Judiciary Committee room, upon the nomination of ANTHONY J. DIMOND, of Alaska, to be United States district judge for the third division of Alaska. At that time and place all persons interested in the nomination may make representations.

NOTICE OF HEARING ON NOMINATION OF LYNN J. GEMMILL TO BE UNITED STATES ATTORNEY, FIRST DIVISION OF ALASKA

Mr. MURDOCK. Mr. President, as chairman of the subcommittee of the Committee on the Judiciary, and in accordance with the rules of the committee, I desire to give notice that a public hearing will be held on the 5th day of February 1944, at 10:30 a. m., in the Senate Judiciary Committee room, upon the nomination of Lynn J. Gemmill, of Alaska, to be United States attorney for the first division of Alaska. At that time and place all persons interested in the nomination may make representations.

WAR REFUGEE BOARD

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the President's Executive order, and accompanying release, establishing a war refugee board, together with a statement thereon by the American Jewish Conference, duly constituted representative of American Jewry.

The Executive order effectuates the policy of this Government "to take all measures within its power to rescue the

victims of enemy oppression who are in imminent danger of death and otherwise to afford such victims all possible relief and assistance consistent with the successful prosecution of the war." The President has thus established all possible American machinery to develop and carry out measures for the rescue, transportation, maintenance, and relief of the victims of Axis oppression, and to establish havens of temporary refuge for such victims.

As the world has learned to its horror, the main weight of Axis fury has fallen upon the Jewish population of Europe, which is marked for extermination by Hitler's butcher battalions. To these unfortunate victims, and to the other millions of every nationality, race, and creed who live under Axis rule, this action by the President of the United States comes as a beacon of hope and a promise of succor. May God speed the work of the War Refugee Board, and all agencies and governments cooperating in its work of mercy, rescue, and resettlement.

There being no objection, the Executive order and accompanying release and statement were ordered to be printed in the RECORD, as follows:

JANUARY 22, 1944.

The President today, by Executive order, set up a War Refugee Board, consisting of the Secretary of State, the Secretary of the Treasury, and the Secretary of War, to take action for the immediate rescue from the Nazis of as many as possible of the persecuted minorities of Europe—racial, religious, or political—all civilian victims of enemy savagery.

The Executive order declares that "it is the policy of this Government to take all measures within its power to rescue the victims of enemy oppression who are in imminent danger of death and otherwise to afford such victims all possible relief and assistance consistent with the successful prosecution of the war."

The Board is charged with direct responsibility to the President in seeing that the announced policy is carried out. The President indicated that while he would look directly to the Board for the successful execution of this policy, the Board, of course, would cooperate fully with the Intergovernmental Committee, the United Nations Relief and Rehabilitation Administration, and other interested international organizations.

The President stated that he expected to obtain the cooperation of all members of the United Nations and other foreign governments in carrying out this difficult but important task. He stated that the existing facilities of the State, Treasury, and War Departments would be employed to aid Axis victims to the fullest extent possible. He stressed that it was urgent that action be taken at once to forestall the plan of the Nazis to exterminate all the Jews and other persecuted minorities in Europe.

It will be the duty of a full-time executive director of the Board to arrange for the prompt execution of the plans and programs developed and the measures inaugurated by the Board.

The Executive order follows:

"EXECUTIVE ORDER ESTABLISHING A WAR REFUGEE BOARD

"Whereas it is the policy of this Government to take all measures within its power to rescue the victims of enemy oppression who are in imminent danger of death and otherwise to afford such victims all possible

relief and assistance consistent with the successful prosecution of the war:

"Now, therefore, by virtue of the authority vested in me by the Constitution and the statutes of the United States, as President of the United States and as Commander in Chief of the Army and Navy, and in order to effectuate with all possible speed the rescue and relief of such victims of enemy oppression, it is hereby ordered as follows:

"1. There is established in the Executive Office of the President a War Refugee Board (hereinafter referred to as the Board). The Board shall consist of the Secretary of State, the Secretary of the Treasury, and the Secretary of War. The Board may request the heads of other agencies or departments to participate in its deliberations whenever matters specially affecting such agencies or departments are under consideration.

"2. The Board shall be charged with the responsibility for seeing that the policy of the Government, as stated in the preamble, is carried out. The functions of the Board shall include without limitation the development of plans and programs and the inauguration of effective measures for (a) the rescue, transportation, maintenance, and relief of the victims of enemy oppression, and (b) the establishment of havens of temporary refuge for such victims. To this end the Board, through appropriate channels, shall take the necessary steps to enlist the cooperation of foreign governments and obtain their participation in the execution of such plans and programs.

"3. It shall be the duty of the State, Treasury, and War Departments, within their respective spheres, to execute at the request of the Board, the plans and programs so developed and the measures so inaugurated. It shall be the duty of the heads of all agencies and departments to supply or obtain for the Board such information and to extend to the Board such supplies, shipping, and other specified assistance and facilities as the Board may require in carrying out the provisions of this order. The State Department shall appoint special attachés with diplomatic status, on the recommendation of the Board, to be stationed abroad in places where it is likely that assistance can be rendered to war refugees, the duties and responsibilities of such attachés to be defined by the Board in consultation with the State Department.

"4. The Board and the State, Treasury, and War Departments are authorized to accept the services or contributions of any private persons, private organizations, State agencies, or agencies of foreign governments in carrying out the purposes of this order. The Board shall cooperate with all existing and future international organizations concerned with the problems of refugee rescue, maintenance, transportation, relief, rehabilitation, and resettlement.

"5. To the extent possible the Board shall utilize the personnel, supplies, facilities, and services of the State, Treasury, and War Departments. In addition, the Board within the limits of funds which may be made available, may employ necessary personnel without regard for the civil-service laws and regulations and the Classification Act of 1923, as amended, and make provisions for supplies, facilities, and services necessary to discharge its responsibilities. The Board shall appoint an executive director, who shall serve as its principal executive officer. It shall be the duty of the executive director to arrange for the prompt execution of the plans and programs developed and the measures inaugurated by the Board, to supervise the activities of the special attachés, and to submit frequent reports to the Board on the steps taken for the rescue and relief of war refugees.

"6. The Board shall be directly responsible to the President in carrying out the policy of this Government, as stated in the pre-

amble, and the Board shall report to him at frequent intervals concerning the steps taken for the rescue and relief of war refugees and shall make such recommendations as the Board may deem appropriate for further action to overcome any difficulties encountered in the rescue and relief of war refugees.

"FRANKLIN D. ROOSEVELT.

"THE WHITE HOUSE, January 22, 1944."

AMERICAN JEWISH CONFERENCE WELCOMES NEW WAR REFUGEE BOARD

The American Jewish Conference last night expressed "its profound appreciation" to President Roosevelt for his Executive order establishing a War Refugee Board, which will take action for the immediate rescue from the Nazis of as many as possible of the persecuted minorities of Europe.

"The action taken by our President promises life to people who were otherwise doomed to destruction and will be welcomed by millions of Americans who have been deeply concerned with this pressing problem," the conference said.

The conference's commission on rescue had asked the Government to establish this interdepartmental Board "so that specific rescue proposals could be centralized and their execution implemented with the greatest possible speed and effectiveness," and representatives of the commission have been negotiating with Government officials to that end for some time, the statement said.

The conference said that, based on recent reports from Europe disclosing the feasibility of rescue efforts, Mr. Herman Shulman and Rabbi Irving Miller, of New York, had submitted a number of concrete and specific plans dealing with the feeding and evacuation of Jews in Nazi-occupied territory.

They presented these to Government officials in behalf of the conference commission on rescue.

"The conference, representing the organized responsibility of the American Jewish community, will place at the disposal of the new War Refugee Board the services of its commission on rescue and will make every possible contribution to facilitate the work of the new agency," the statement said.

Co-chairmen of the American Jewish Conference are Dr. Israel Goldstein, of New York; Mr. Henry Monsky, of Omaha, and Dr. Stephen S. Wise, of New York.

The conference statement follows:

"The American Jewish Conference expresses its profound appreciation to President Roosevelt for his Executive order establishing a War Refugee Board, which will take action for the immediate rescue from the Nazis of as many as possible of the persecuted minorities of Europe.

"The commission on rescue of the conference, which was established to coordinate rescue work in behalf of American Jewish organizations, had asked our Government to create this interdepartmental Board so that specific rescue proposals could be centralized and their execution implemented with the greatest possible speed and effectiveness. To accomplish this result, representatives of the conference have been in negotiation for some time with officials of the State, Treasury, and other Departments.

"A program for the rescue of the surviving Jews of Europe from extermination at the hands of Hitler was submitted to the Bermuda Conference by Jewish organizations last spring. In September the American Jewish Conference, meeting in New York, renewed the pleas of the American Jewish community for early action by our Government and the United Nations.

"As the Nazis now face military defeat, Hitler has made it clear that he will wreak vengeance upon the Jews still in his power. He has vowed their complete destruction. The need for an intensification of rescue

efforts is apparent if Jews are to escape extermination.

"Recent reports from Europe relate that many Jews can escape the Nazi terror and find a refuge in neutral states. In addition, the position of the Jew in certain satellite countries may change for the better as these countries realize the inevitability of Hitler's defeat.

"Prompt and vigorous action on the part of the United Nations to take advantage of this changing situation may result in the salvation of countless numbers more.

"Based upon these reports, which have come to the conference and its constituent agencies from abroad and through the underground, Mr. Herman Shulman and Rabbi Irving Miller, of New York, representing the American Jewish Conference, have submitted to Government officials a number of concrete and specific plans dealing with the feeding and evacuation of Jews in Nazi-occupied territory.

"The conference, representing the organized responsibility of the American Jewish community, will place at the disposal of the new War Refugee Board the services of its commission on rescue and will make every possible contribution to facilitate the work of the new agency. The action taken by our President promises life to people who were otherwise doomed to destruction and will be welcomed by millions of Americans who have been deeply concerned with this pressing problem."

JANUARY 23, 1944.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT, laid before the Senate the following letters, which were referred as indicated:

AMENDMENT OF THE WAR OVERTIME PAY ACT OF 1943

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the War Overtime Pay Act of 1943, relating to the payment of overtime compensation to Government employees, and for other purposes (with an accompanying paper); to the Committee on Civil Service.

REPORT OF UNITED STATES MARITIME COMMISSION ON CONTRACTS ENTERED INTO OR MODIFIED

A letter from the Chairman of the United States Maritime Commission, transmitting, pursuant to law, a report of contracts entered into or modified under authority of Public Law 46, Seventy-seventh Congress, for the period beginning October 1, 1943, and ended December 1, 1943 (with an accompanying report); to the Committee on Commerce.

REPORT OF UNITED STATES MARITIME COMMISSION

A letter from the Secretary of the United States Maritime Commission, transmitting, pursuant to law, the report of the Commission for the period ended June 30, 1943 (with an accompanying report); to the Committee on Commerce.

PERSONNEL REQUIREMENTS OF A DEPARTMENT, COMMISSION, ETC.

Letters transmitting, pursuant to law, estimates of personnel requirements for the quarter ending March 31, 1944, for the Department of the Interior, the United States Civil Service Commission, and the Smaller War Plants Corporation (with accompanying papers); to the Committee on Civil Service.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Archivist of the United States, transmitting, pursuant to law, a list of papers and documents on the files of the Departments of War, Justice, Navy (2), and Labor; and the National Archives (2) which are not needed in the conduct of business

and have no permanent value or historical interest, and requesting action looking toward their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. BARKLEY and Mr. BREWSTER members of the committee on the part of the Senate.

FEDERAL BALLOTS FOR SOLDIERS— PETITIONS FROM DETROIT

Mr. VANDENBERG. Mr. President, I desire formally to present on behalf of my colleague [Mr. FERGUSON] and myself petitions which are at the clerk's desk. They were gathered by various groups in the city of Detroit. Forty-five thousand signatures are requesting the Federal ballot for soldiers. I ask that the text of one petition be printed at this point in the RECORD and that the petitions be appropriately referred.

There being no objection, the petitions were ordered to lie on the table and the text of one of the petitions was ordered to be printed in the RECORD, as follows:
To the Congress of the United States:

Whereas the right of all American citizens to vote is a sacred function of our democracy; and

Whereas over 11,000,000 American men and women, now in the armed services of our Nation, must be given every opportunity to exercise that right in the national elections in November 1944: Therefore

We, the undersigned, who have sons or daughters, husbands, wives, sweethearts, brothers or sisters in the armed forces, hereby petition the Congress of the United States to grant, without qualification, the opportunity to vote to our service men and women and to vote for Federal jurisdiction of such voting without the complications arising from State election procedure.

CONSUMER SUBSIDIES—PETITIONS

Mr. VANDENBERG. Mr. President, I also formally present petitions with 250,000 signatures in favor of consumer subsidies. I ask that the text of one petition regarding consumer subsidies be printed in the RECORD, and that the petitions be appropriately referred.

There being no objection, the petitions were ordered to lie on the table and the text of one of the petitions was ordered to be printed in the RECORD, as follows:

SUBSIDIES TO CONTROL PRICES AND INCREASE FOOD PRODUCTION

To the Congress of the United States:

Whereas subsidies are necessary to roll back and control prices; and

Whereas control of prices is necessary to prevent inflation; and

Whereas subsidies will act as an incentive to the farmers to increase the food production: Therefore

We, the undersigned, hereby petition the Congress of the United States to approve subsidies and vote down H. R. 3477 which prohibits subsidies by any Government agency.

PROHIBITION OF LIQUOR TRAFFIC DURING THE WAR—MEMORIALS FROM WISCONSIN

Mr. LA FOLLETTE. Mr. President, I present for appropriate reference certain memorials signed by sundry citizens of Wisconsin remonstrating against the enactment of any prohibition legislation

and ask that the heading of one of the memorials may be printed in the RECORD.

There being no objection, the memorials were referred to the Committee on the Judiciary, and the heading of one of the memorials was ordered to be printed in the RECORD, as follows:

PROTEST AGAINST PROHIBITION

JANUARY 17, 1944.

We are against prohibition. We do not want it to happen here again. We, the undersigned American citizens of the State of Wisconsin, protest against the Bryson bill (H. R. 2082) or any bill like it, which would deprive any part of the American people of the right to enjoy the use of alcoholic beverages as they are made today.

Sponsored by:

EMIL SIEVERT,
Merrill, Wis.

TAX ON OLEOMARGARINE: NEED FOR PROTEIN MEAL—RESOLUTIONS BY KANSAS STATE DAIRY ASSOCIATION

Mr. CAPPER. Mr. President, I received copy of the resolutions adopted a few days ago by the Kansas State Dairy Association at its annual meeting in Topeka, Kans., on January 12, in which the members of this association go on record in their opposition to pending legislation which would benefit the oleomargarine manufacturers at the expense of the butter producers. Also a resolution which asks that sufficient quantities of high protein meal in primary form be made available to the dairy industry. I ask that these resolutions be printed in the RECORD and appropriately referred.

There being no objection, the resolutions were referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

Whereas the oleomargarine manufacturers have through a united effort endeavored to take over the natural market of butter, at the same time the Federal Government has commandeered large quantities of butter for lend-lease purposes and for use of the Army and Navy and those invalidated home from the war, and these efforts have been resisted by our Senators and Congressmen: Be it

Resolved, That this association extend to Senator CAPPER, Senator REED, and Congressmen LAMBERTSON, WINTERS, REES, HOPE, CARLSON, and SCRIVENER our most sincere thanks for the splendid, successful fight they have made in the interest of the general public welfare and Kansas dairymen.

Whereas it has become increasingly difficult to purchase vegetable protein meals in primary form which are so necessary for the economical production of dairy products needed to meet the goals set by the War Food Administration: Therefore be it

Resolved, That the W. F. A. take such steps as may be necessary to make available to the dairy industry sufficient quantities of high protein meal in primary form to meet the needs of the industry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McKELLAR, from the Committee on Appropriations:

H. J. Res. 208. Joint resolution making an appropriation to assist in providing a supply and distribution of farm labor for the calendar year 1944; with amendments (Rept. No. 634).

By Mr. McCARRAN, from the Committee on the District of Columbia:

S. 1641. A bill to amend the Code of the District of Columbia providing for the sale of fish of the shad or herring species, and for other purposes; without amendment (Rept. No. 635);

S. 1657. A bill to amend an act entitled "An act to empower the Commissioners of the District of Columbia to convey land" (approved April 28, 1922); without amendment (Rept. No. 636);

S. 1658. A bill to extend for 1 year the date of termination of Public Law 22, dated April 1, 1943, entitled "To provide for a temporary increase in compensation for certain employees of the District of Columbia government and the White House Police Force"; without amendment (Rept. No. 637); and

H. R. 3916. A bill to permit the construction and use of certain pipe lines for pneumatic tube transmission in the District of Columbia; with amendments (Rept. No. 638).

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. REED:

S. 1664. A bill to reestablish the Federal Home Loan Bank Board, to re-create the offices of the members of said Board, and to transfer functions of the Federal Home Loan Bank Administration from the National Housing Agency to said Board, and for other purposes; to the Committee on Banking and Currency.

By Mr. ELLENDER:

S. 1665. A bill to relieve certain employees of the Veterans' Administration from financial liability for certain overpayments and allow such credit therefor as is necessary in the accounts of Guy F. Allen, chief disbursing officer; to the Committee on Claims.

By Mr. GURNEY:

S. 1666. A bill for the relief of Leonard Larson; to the Committee on Claims.

By Mr. CLARK of Missouri:

S. 1667. A bill to amend section 42 of title 7 of the Canal Zone Code; to the Committee on Intercoastal Canals.

By Mr. WALSH of Massachusetts:

S. 1668. A bill authorizing appropriations for the United States Navy for additional ship repair facilities, and for other purposes; to the Committee on Naval Affairs.

By Mr. REYNOLDS:

S. 1669. A bill to clarify the law relative to allowances for mileage of graduates of the United States Military Academy and transportation of their dependents on assignment to their first duty station and to the mileage allowance of persons entering the United States Military Academy as cadets; to the Committee on Military Affairs.

(Mr. THOMAS of Utah introduced Senate bill 1670, which was referred to the Committee on Education and Labor, and appears under a separate heading.)

By Mr. BAILEY:

S. J. Res. 112. Joint resolution authorizing and directing the Fish and Wildlife Service of the Department of the Interior to conduct a survey of the marine and fresh-water fishery resources of the United States, its Territories and possessions; to the Committee on Commerce.

ADULT EDUCATION EXTENSION PROGRAM

Mr. THOMAS of Utah. Mr. President, I ask unanimous consent to introduce, for appropriate reference, a bill to promote the welfare of the people by establishing a publicly supported adult education program stemming from the State universities and land-grant colleges, and so forth.

There being no objection, the bill (S. 1670) to promote the welfare of the people by establishing a publicly supported adult-education program stemming from the State universities and land-grant colleges, by setting up a college and university adult education extension program separate from but supplemental to the cooperative agricultural extension service authorized by previous acts, thus making broadly available to community groups and individuals the full educational resources and research findings of these public institutions of higher learning, was read twice by its title and referred to the Committee on Education and Labor.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H. J. Res. 192) to enable the United States to participate in the work of the United Nations relief and rehabilitation organization was read twice by its title and referred to the Committee on Foreign Relations.

CONTINUATION OF COMMODITY CREDIT CORPORATION—AMENDMENT

Mr. O'MAHONEY submitted an amendment intended to be proposed by him to the bill (H. R. 3477) to continue the Commodity Credit Corporation as an agency of the United States, to revise the basis of annual appraisal of its assets, and for other purposes, which was ordered to lie on the table and to be printed.

WARTIME METHOD OF VOTING BY MEMBERS OF THE ARMED FORCES—AMENDMENTS

Mr. REVERCOMB submitted an amendment intended to be proposed by him to the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting, in time of war, by members of the land and naval forces absent from the place of their residence, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. HOLMAN submitted an amendment intended to be proposed by him to the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting, in time of war, by members of the land and naval forces absent from the place of their residence, and for other purposes, which was ordered to lie on the table, to be printed, and to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. HOLMAN to the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting, in time of war, by members of the land and naval forces absent from the place of their residence, and for other purposes, viz: At the proper place in the bill insert the following: "Provided, That the President by the exercise of this authority shall be deemed to disqualify himself thereby from being a candidate for any office to be affected by the administration of this act, should the President become disqualified from exercising the authority granted to him under this act, then and in that event, the ex-President of the United States who has most recently served as President shall exercise every and all authority which otherwise is granted the President under the language of this act."

FEDERAL REGULATION OF IMMIGRATION—ADDRESS BY SENATOR HOLMAN

[Mr. HOLMAN asked and obtained leave to have printed in the RECORD a radio address on the subject of Federal regulation of immigration delivered by him on Monday, January 24, 1944, which appears in the Appendix.]

FARM PRICES, FARM INCOME, AND PRICE CONTROLS—LETTER FROM CHESTER BOWLES

[Mr. CAPPER asked and obtained leave to have printed in the RECORD a letter addressed to him by Chester Bowles, Administrator of the Office of Price Administration, relative to farm prices, farm income, and price controls, which appears in the Appendix.]

RED CROSS ACTIVITIES OF, AND TRIBUTES TO, MABEL T. BOARDMAN

[Mr. WALSH of Massachusetts asked and obtained leave to have printed in the RECORD a sketch of the activities of Miss Mabel T. Boardman in the American Red Cross and a brief summary of tributes paid to her, which appear in the Appendix.]

TEXT OF RESOLUTION ADOPTED BY DEMOCRATIC NATIONAL COMMITTEE

[Mr. TUNNELL asked and obtained leave to have printed in the RECORD the text of the resolution offered by Senator GREEN and unanimously adopted by the Democratic National Committee on January 2, 1944, which appears in the Appendix.]

THE SERVICE VOTE, EDITORIAL FROM NEW YORK HERALD TRIBUNE

[Mr. GREEN asked and obtained leave to have printed in the RECORD an editorial entitled "The Service Vote," published in the New York Herald Tribune of January 25, 1944, which appears in the Appendix.]

WARTIME METHOD OF VOTING BY MEMBERS OF THE ARMED FORCES—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 386)

The VICE PRESIDENT. The Chair lays before the Senate a message from the President of the United States, which will be read.

Mr. BARKLEY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Gillette	Overton
Andrews	Green	Pepper
Bailey	Guffey	Radcliffe
Ball	Gurney	Reed
Bankhead	Hatch	Revercomb
Barkley	Hawkes	Reynolds
Bilbo	Hayden	Robertson
Bione	Hill	Russell
Brewster	Holman	Shipstead
Bridges	Johnson, Colo.	Smith
Brooks	Kilgore	Stewart
Buck	La Follette	Taft
Burton	Langer	Thomas, Idaho
Bushfield	Lodge	Thomas, Okla.
Butler	Lucas	Thomas, Utah
Byrd	McCarran	Tobey
Capper	McClellan	Truman
Caraway	McFarland	Tunnell
Clark, Idaho	McKellar	Tydings
Clark, Mo.	Maloney	Vandenberg
Connally	Maybank	Wagner
Danaher	Mead	Wallgren
Davis	Millikin	Walsh, Mass.
Downey	Moore	Wheeler
Eastland	Murdock	Wherry
Ellender	Murray	White
Ferguson	Nye	Wills
George	O'Daniel	Wilson
Gerry	O'Mahoney	

Mr. HILL. I announce that the Senator from Virginia [Mr. GLASS] is absent from the Senate because of illness.

The Senator from Nevada [Mr. SCRUGHAM] is detained on official business.

The Senator from Kentucky [Mr. CHANDLER] and the Senator from New Mexico [Mr. CHAVEZ] are detained on public business.

The Senator from New Jersey [Mr. WALSH] is absent because of a slight illness.

Mr. WHITE. The Senator from Oregon [Mr. McNARY] is absent because of illness.

The Senator from Wisconsin [Mr. WILEY] is absent on official business.

The Senator from Vermont [Mr. AUSTIN] is absent as a result of illness.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

The clerk will read the message from the President of the United States.

The legislative clerk read as follows:

To the Congress of the United States:

The American people are very much concerned over the fact that the vast majority of the 11,000,000 members of the armed forces of the United States are going to be deprived of their right to vote in the important national election this fall, unless the Congress promptly enacts adequate legislation. The men and women who are in the armed forces are rightfully indignant about it. They have left their homes and jobs and schools to meet and defeat the enemies who would destroy all our democratic institutions including our right to vote. Our men cannot understand why the fact that they are fighting should disqualify them from voting.

It has been clear for some time that practical difficulties and the elements of time make it virtually impossible for soldiers and sailors and marines spread all over the world to comply with the different voting laws of 48 States and that, unless something is done about it, they will be denied the right to vote. For example, the statutes of 4 of the States permit no absentee voting at all in general elections. Eleven other States require registration in person in order to be able to vote. Others permit absentee registration; but in some instances the procedure is so complicated and the time is so limited, that soldiers and sailors in distant parts of the world cannot practically comply with the State requirements.

But even if the registration requirements were met, there are still innumerable difficulties involved. For example, Pvt. John Smith in Australia, and his brother, Joe, who is on a destroyer off the coast of Italy, who think they are entitled to vote as well as to fight, find that they have to write in and ask the appropriate public official in their own State for absentee ballots. In every State those ballots cannot even be printed until after the primary elections—and in 14 States the primaries do not take place until September. In due time the ballots are printed—but they cannot always be sent out immediately, since in about half the States the absentee ballots cannot be mailed until 30 days or less before

the election. Weeks after they are mailed out they reach John Smith in Australia and Joe aboard his destroyer. Even assuming that John and Joe, in the meantime, have not been transferred to another station or ship or have not been wounded and sent to hospital, it is doubtful whether the ballots will get back in time to be counted. If they have been moved, as is very likely, the ballots may not even reach them before election day.

In 14 States the procedure is even more time-consuming and cumbersome—for instead of writing for an official ballot John and Joe must first obtain special application forms for official ballots which must be received and filled out and returned before the ballots themselves are even mailed to them.

The Congress in September 1942 took cognizance of this intolerable situation facing millions of our citizens, and passed a Federal absentee balloting statute (Public Law 712). That law did three things: It provided for a Federal ballot to be prepared by the States; it abrogated State requirements for registration and poll-tax payments insofar as they apply to members of the armed forces and it required the War and Navy Departments to distribute postal cards to members of the armed forces with which they might request Federal absentee ballots from their State election officials.

The Federal law was a slight improvement in that it provided absentee voting procedures in those cases where there had been no action by the States. It also eliminated some of the strict procedural requirements contained in many of the State laws. The great defect in that statute, however, was that it still involved a time lag so that the voter might not receive his ballot in time to return it to be counted. This defect is inherent, and cannot be avoided, in any statute under which the forwarding of ballots for distribution must wait until the candidates have been selected in the primaries, or which requires correspondence between the local election officials and soldiers and sailors who may be transferred or moved at any minute. If any proof were necessary to show how ineffective this Federal statute was—the fact is that out of 5,700,000 men in our armed forces at the time of the general elections of 1942, only 28,000 servicemen's votes were counted under the Federal statute.

The need for new legislation is evident if we are really sincere, and not merely rendering lip service to our soldiers and sailors.

By the 1944 elections there will be more than 5,000,000 Americans outside the limits of the United States in our armed forces and merchant marine. They, and the millions more who will be stationed within the United States waiting the day to join their comrades on the battle fronts, will all be subject to frequent, rapid, and unpredictable transfer to other points outside and inside the United States. This is particularly true in the case of the Navy and merchant marine, components of which are at sea for weeks at a time and are

constantly changing their ports of entry and debarkation.

Some people—I am sure with their tongues in their cheeks—say that the solution to this problem is simply that the respective States improve their own absentee ballot machinery. In fact, there is now pending before the House of Representatives a meaningless bill passed by the Senate December 3, 1943, which presumes to meet this complicated and difficult situation by some futile language which "recommends to the several States the immediate enactment of appropriate legislation to enable each person absent from his place of residence and serving in the armed services of the United States * * * who is eligible to vote in any election district or precinct, to vote by absentee ballot in any general election held in his election district or precinct in time of war." This "recommendation" is itself proof of the unworkability of existing State laws.

I consider such proposed legislation a fraud on the soldiers and sailors and marines now training and fighting for us and for our sacred rights. It is a fraud upon the American people. It would not enable any soldier to vote with any greater facility than was provided by Public Law 712, under which only a negligible number of soldiers' votes were cast.

This "recommendation" contained in this piece of legislation may be heeded by a few States but will not—in fact, cannot—be carried out by all the States. Two States would require a constitutional amendment in order to adopt a practical method of absentee voting, which is obviously impossible to do before the November elections. Only a handful of the States, nine, will have legislatures regularly in session this year; and to date only eight other States have called special sessions of their legislatures for this purpose.

Besides, the Secretary of War, who will have the bulk of the administrative responsibility for distributing and collecting the ballots, has stated: "No procedure for offering the vote to servicemen can be effectively administered by the War and Navy Departments in time of war unless it is uniform and as simple as possible. Especially is this true with regard to the voting of persons outside the United States. * * * An army engaged in waging war cannot accommodate that primary function to multiple differences in the requirements of the 48 States as to voting procedure."

I am convinced that even if all the States tried to carry out the recommendations contained in this bill, the most that could be accomplished practically would be to authorize the Army and Navy to distribute and collect ballots prepared by the States in response to post-card requests from servicemen—the very procedure set forth in Public Law 712, which has been such a failure.

What is needed is a complete change of machinery for absentee balloting, which will give the members of our armed forces and merchant marine all over the world an opportunity to cast their ballots with-

out time-consuming correspondence and without waiting for each separate State to hold its primary, print its ballots, and send them out for voting.

The recent bills proposed by Senators GREEN and LUCAS and by Congressman WORLEY—S. 1612, H. R. 3982—seem to me to do this job. They set up proper and efficient machinery for absentee balloting. These bills propose that blank ballots on special paper suitable for air delivery be sent by the War and Navy Departments to all the fronts and camps and stations out in the field well in advance of election day. Immediately after primary elections are held, the names of the various candidates would be radioed or wired to the various military, naval, and merchant-marine units throughout the world—on the high seas, on every front, and at every training station. The lists of candidates would then be made available to the voters, and the ballots would be distributed for marking in secrecy. But even if the candidates' names had not been made available in an area in time to allow the ballots to be sent back to the United States, the voters could cast their votes by designating merely the name of the party of the candidates they desired to vote for. The voting date would be fixed in each area in sufficient time to get the ballots back home before election day, even if the actual names of the candidates had not been received in that particular area. The ballots would be collected and transmitted back to the United States by the quickest method of delivery, for forwarding to the appropriate State election officials.

Each State, under these bills, would determine for itself whether or not the voter is qualified to vote under the laws of his State. Each State would count the ballots in the same way in which it counts the other ballots that are cast in the State. The sole exceptions would be those conditions of registration and payment of poll tax which could not be satisfied because of the absence of a voter from his State of residence by reason of the war. Those conditions were abrogated by the Congress when it passed the existing Federal absentee balloting law—Public Law 712.

There is nothing in such a proposed statute which violates the rights of the States. The Federal Government merely provides quick machinery for getting the ballots to the troops and back again. Certainly it does not violate States' rights any more than Public Law 712, which was passed by a substantial majority of the Congress in September 1942, and which specifically provided that no member of the armed forces had to register or pay a poll tax in order to vote in a Federal election. It is no more violative of States' rights than the Soldiers' and Sailors' Civil Relief Act, which the Congress passed in October 1940—more than a year before the war began.

It is true that these bills do not provide a simplified method of voting for State and local officials. The Congress has not the same authority to provide a simplified voting procedure for the thousands of State and local candidates that

it has for Federal candidates. Nor would it be practicable to do so. The inclusion of all the State and local candidates would increase the size and weight of the ballot so as to make air delivery a physical impossibility. Furthermore, the transmission and distribution of names of the many thousands of State and local candidates throughout the United States to each voter in every military and naval unit and merchant ship raise insuperable difficulties.

Since these bills provide that if any voter wishes, he may use the procedure of his own State for absentee balloting, he is given, to the extent that there is any possibility of doing so, an opportunity to vote for State and local candidates. In fact, since they provide for a post card system to implement the State laws, each voter is given at least as great an opportunity to vote for State and local candidates as he would have under any legislation.

The inclusion of other groups of voters who are engaged abroad in war work of various kinds would be desirable. But as to members of our armed forces and merchant marine, I deem the legislation imperative.

Our millions of fighting men do not have any lobby or pressure group on Capitol Hill to see that justice is done for them. They are not ordinarily permitted to write their Congressman on pending legislation; nor do they put ads in the papers or stimulate editorial writers or columnists to make special appeals for them. It certainly would appear unnecessary that our soldiers and sailors and merchant marine have to make a special effort to retain their right to vote.

As their Commander in Chief, I am sure that I can express their wishes in this matter and their resentment against the discrimination which is being practiced against them.

The American people cannot believe that the Congress will permit those who are fighting for political freedom to be deprived of a voice in choosing the personnel of their own Federal Government.

I have been informed that it would be possible, under the rules of the Congress, for a soldiers' vote bill to be rejected or passed without any roll call, thus making it impossible for the voters of the country—military or civilian—to be able to determine just how their own Representative or Senator had voted on such a bill.

I have hesitated to say anything to the Congress on this matter for the simple reason that the making of these rules is solely within the discretion of the two Houses of the legislative branch of the Government. I realize that the Executive as such has nothing to do with the making or the enforcement of these rules. Nevertheless there are times, I think, when the President can speak as an interested citizen.

I think that there would be widespread resentment on the part of the people of the Nation if they were unable to find out how their individual representatives had expressed themselves on this legis-

lation—which goes to the root of the right of citizenship.

As I have said this is solely a legislative matter, but I think most Americans will agree with me that every Member of the two Houses of Congress ought to be willing in justice "to stand up and be counted."

FRANKLIN D. ROOSEVELT.
THE WHITE HOUSE, January 26, 1944.

The VICE PRESIDENT. The message will lie on the table and be printed.

METHOD OF VOTING BY MEMBERS OF ARMED FORCES

The Senate resumed the consideration of the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting in time of war by members of the land and naval forces absent from the place of their residence, and for other purposes.

Mr. TAFT obtained the floor.

Mr. DANAHER. Mr. President, will the Senator yield to me for a few moments?

Mr. TAFT. I yield.

Mr. DANAHER. I thank the Senator.

Mr. President, on Monday, I made reference to a release from the War Department which had been given to the press under date of November 24, 1943. On page 619 of the RECORD discussion of the matter appears. At that time I did not have the release with me. In fact, I had read it many weeks before. Some of the facts regarding it I did not recall.

I now have a copy of the War Department's release which was issued under date of November 24, 1943. I ask unanimous consent that it be printed in full in the RECORD at this point.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

INSTRUCTIONS GIVEN LOUISIANA SOLDIERS WHO DESIRE TO VOTE IN PRIMARIES

Provisions for making application for absentee ballots for all Army personnel whose voting residences are in Louisiana, and who desire to vote in that State's primary elections on January 18, 1944, and February 29, 1944, were announced today by the War Department.

Soldiers may apply for absentee ballots, either in accordance with Louisiana law, or by mailing to the secretary of state of Louisiana the postage-free post card applications for ballots which are provided by the War Department. These post cards already have been supplied to military installations in the United States and to units in theaters of operation overseas.

Blank absentee ballots for the Louisiana primaries will be ready early in December for mailing to military personnel who apply. In order to be counted, the executed ballots must be received in Louisiana before the polls open on the primary day.

Commanding officers have been instructed by the War Department to call the Louisiana primaries to the attention of all soldiers whose voting residences are in Louisiana in time to permit the mailing of applications for ballots, the return of the ballots to applicants, and the mailing of ballots by voters in time for them to be counted as valid.

Primaries in other States will be held during the months of April through October. Information concerning absentee voting by military personnel in other primary and general elections will be furnished by the

War Department at an appropriate later date.

Mr. DANAHER. Mr. President, yesterday Colonel Cutler, from the War Department, to whom apparently had been assigned the matter of collaboration with the committee as to the War Department's duties and administration under the proposed legislation, came to see me and told me that a circular, No. 304, had been issued by the War Department under date of November 22, 1943. It was with reference to that circular that the release I just described was issued. I had never heard of the circular, and was very happy to receive a copy of it from Colonel Cutler. I ask unanimous consent that the circular may be printed in full in the RECORD at this point.

There being no objection, the circular was ordered to be printed in the RECORD, as follows:

WAR DEPARTMENT, Washington D. C., 22 November 1943. CIRCULAR NO. 304

1. Election: 1. During 1944, the general election and many primary elections will be held. Except in Louisiana, State primaries will be held during the months April through October. For the present, Circular No. 321, War Department, 1942, as amended by section I, Circular No. 324, War Department, 1942, and section V, Circular No. 156, War Department, 1943, remain in effect as to voting by personnel of the armed forces.

2. a. The specific information in b below with respect to the Louisiana primaries for State and local offices is published for the guidance of all concerned and will be brought promptly to the attention of all members of the armed forces whose voting residence is in Louisiana.

b. The Louisiana primaries for State and local offices will be held: First primary, 18 January 1944; second primary, 29 February 1944. Soldiers' applications for absentee ballots will be received at any time. Blank absentee ballots will be ready early in December 1943 to mail to soldiers who apply. In order to be counted, soldiers' executed absentee ballots must be received in Louisiana before the polls open on the primary day.

3. Soldiers having voting residence in Louisiana may apply for absentee ballots either in accordance with Louisiana law or by mailing to the secretary of state of Louisiana the postage-free post-card application referred to in section V, Circular No. 156, War Department, 1943. These post cards have already been supplied to posts, camps, and stations in the United States and to units in theaters of operation. If post cards are not available, soldiers may use the text thereof, as prescribed in Circular No. 321, War Department, 1942, for an application by letter.

4. The attention of commanding officers is directed to the necessity of bringing the subject of these primaries to the attention of soldiers whose voting residence is in Louisiana in time to permit the mailing of applications for ballots, the return of ballots to applicants, and the mailing of ballots by voters in time for them to be counted as valid.

5. Information regarding other primary and general elections will be furnished at an appropriate later date.

[A. G. 014.35 (20 November 43).]

By order of the Secretary of War:

G. C. MARSHALL,
Chief of Staff.

Official:

J. A. ULIO,
Major General,
The Adjutant General.

Mr. DANAHER. Mr. President, one interesting thing about the circular which it seems to me might properly be read as I go along, is paragraph 4:

4. The attention of commanding officers is directed to the necessity of bringing the subject of these primaries to the attention of soldiers whose voting residence is in Louisiana in time to permit the mailing of applications for ballots, the return of ballots to applicants, and the mailing of ballots by voters in time for them to be counted as valid.

I end the quotation at that point, in order to state that apparently it was contemplated by the War Department that commanding officers in the various camps and theaters of war should call the existing law and the opportunities under it to resort to absentee voting to the attention of soldiers whose voting residence is in Louisiana.

Mr. President, Colonel Cutler further advised that he had prepared a memorandum with reference to the Louisiana State primaries to be held on January 18 and February 29, 1944; and that memorandum, dated January 25, 1944, he furnished to me. I think Colonel Cutler's entire position should be made available to the Senate, through the medium of the RECORD; and I ask unanimous consent that Colonel Cutler's memorandum, as he furnished it to me, also be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

WAR DEPARTMENT ACTION IN REGARD TO LOUISIANA STATE PRIMARIES ON JANUARY 18 AND FEBRUARY 29, 1944

1. In line with its policy to assist and encourage servicemen to vote, insofar as practicable and compatible with military necessity, the War Department on November 22 published W. D. Circular No. 304 (copy attached) to advise soldiers having voting residence in Louisiana of their opportunity to vote under State law in the Louisiana State primaries on January 18 and February 29, 1944. The Navy published similar information at about the same time.

2. These Louisiana primaries (which are for State offices only) are the only primaries held in 1944 prior to April. Hence, they were separately treated.

3. The Army and Navy intend to publish similar information from time to time concerning other primaries later to be held.

4. The information so published in no way indicated that either the Army or Navy could undertake to supply ballots of a particular State to soldiers of a particular State. It stated that uniform post-card applications had been printed and were available all over the world for use by soldiers who wished to use them in making application for Louisiana ballots for these primaries. Louisiana will accept these post cards as applications for State absentee ballots.

In other words, the circular merely advised the soldiers to apply for State ballots by uniform post-card applications. This is the "Title II" procedure under the Green-Lucas bill now under debate. The Army and Navy intend insofar as practicable and compatible with military operations to aid in voting under State procedures.

5. The Army and Navy have repeatedly made plain that they cannot undertake to distribute to servicemen of a given State the particular application form or the particular ballot of that State. Such an undertaking is an administrative impossibility:

(a) Servicemen from all States will be found in any fair-sized unit or ship, all over the world. The Army and Navy cannot carry to each such unit a sufficient number of ballots for each State to meet the estimated potential from each State in each such unit or ship. Nor can the Army and Navy accurately identify in advance, in wartime, how many servicemen from each State are in each such unit or ship. In the Army alone there are 10,000 changes of duty status a day.

(b) Furthermore, each State has as many different ballots as there are different voting entities in that State. Thus, in Massachusetts, a ballot for a Worcester voter is very different from a ballot for a Boston voter.

6. This administrative difficulty was pointed out in the joint report of the Secretaries of War and Navy, November 13, 1943, to the chairman of the House committee, on House Concurrent Resolution 49 (the earlier House counterpart of the Eastland-McClellan-McKellar bill), as follows:

"The War and Navy Departments have heretofore expressed the belief that, in regard to one general election, they may be able, in bulk, to distribute, collect, and return uniform air-mail ballots. But it is doubtful whether air-mail facilities would permit the distribution, collection, and return of millions of ballots for primaries and elections separately mailed over a period of several months. Nor could this practical problem be solved by the several States providing to the services, at one given time, sufficient quantities of their ballots for bulk distribution and collections. The proposed resolution implies that each State will wish its citizens in the services to vote its particular ballot, which will bear the names of candidates. Because in almost every large unit in the Army and Navy there are citizens of many States, the services would be required to transmit to each such unit a sufficient quantity of ballots from each State to accommodate an estimated potential from each State in such unit. Air-mail facilities could not sustain such a burden. Nor would it be feasible, by reason of military security and necessity, to solve this problem by requiring the Army and Navy to identify in advance the number of voters from each State in each such unit throughout the world. An equally impracticable solution would be the use of State ballots in blank, supplemented by lists of names of candidates to be voted upon, because of the tremendous volume of candidates involved in all the Federal, State, and local primaries and elections in 1944.

ROBERT CUTLER,
Colonel, G. S. C.

Mr. DANAHER. I thank the Senator for yielding to me.

TRAINING OF NURSES FOR THE ARMED FORCES AND OTHER SERVICES

Mr. THOMAS of Utah. Mr. President, will the Senator from Ohio yield to me?

Mr. TAFT. I yield.

Mr. THOMAS of Utah. Will the Senator yield in order that I may make request to have the Senate proceed to the consideration of a necessary measure?

Mr. TAFT. I yield.

Mr. THOMAS of Utah. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Senate bill 1633, Calendar No. 643.

Mr. WHITE. Mr. President, will the Senator indicate what the measure is, so that we may have an understanding of it?

Mr. THOMAS of Utah. The bill proposes an amendment to the Nurses' Educational Training Act which merely makes it possible for the student trainees to do the second year of their training work in Federal hospitals. It was assumed that the students would naturally move into the Federal hospitals when the time came for such training. However, due to certain other legislation and certain rules which have been prescribed by the departments, the amendment is necessary in order that the plan may work out. I am sure there can be no objection to the bill.

Mr. WHITE. As I understand the amendment proposed by the bill, it would facilitate the implementation of the nurses' educational training bill which the Congress passed some time last summer or spring; is that true?

Mr. THOMAS of Utah. That is true. The Navy Department and other departments are asking for the trainees, but they cannot proceed without the passage of the bill.

The VICE PRESIDENT. The bill will be read by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1633) to amend the act entitled "An act to provide for the training of nurses for the armed forces, governmental and civilian hospitals, health agencies, and war industries, through grants to institutions providing such training, and for other purposes," approved June 15, 1943, so as to provide for the full participation of institutions of the United States in the program for the training of nurses, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the act entitled "An act to provide for the training of nurses for the armed forces, governmental and civilian hospitals, health agencies, and war industries, through grants to institutions providing such training, and for other purposes," approved June 15, 1943 (Public Law 74, 78th Cong.), is amended by striking out, in section 7 thereof, the words "is authorized to procure and provide insignia" and inserting in lieu thereof the words "is authorized, without regard to section 3709 of the Revised Statutes, to procure and provide uniforms and insignia"; and by adding at the end of such act the following new sections:

"Sec. 11. (a) The head of any department, establishment, or other Federal agency is hereby authorized to request and accept transfers of student nurses, transferable pursuant to subsections (e) and (f) of section 2, to any Federal hospital operated by his agency in the continental United States, exclusive of Alaska, and to provide for the continued training of such student nurses requisite to graduation: *Provided*, That the period of training in no case shall extend beyond the period required for graduation by the institution from which the student nurse was transferred, but may be terminated at any time prior thereto as the interests of the service may require.

"(b) During the period of such training student nurses shall be entitled to a stipend at such uniform monthly rate as may be prescribed by the President, and shall be entitled to (1) travel expenses as authorized by the Subsistence Expense Act of 1926, as amended,

including travel incident to their initial transfer and in returning to the location from which transferred upon completion or termination of the period of training; (2) quarters, subsistence, and laundry (including laundering of uniforms) while at Federal hospitals; and (3) necessary medical and hospital care in Federal hospital facilities: *Provided*, That no student nurse receiving a stipend, fixed pursuant to this section, shall be entitled to any overtime or additional compensation under the War Overtime Pay Act of 1943. The appropriate appropriations of the agencies concerned are hereby made available for the purposes of this section.

"(c) Should any student nurse so transferred and in training suffer disability or death while in the performance of duty, she or her dependents shall be entitled, under the same conditions and to the same extent, to the benefits which are provided for civil employees of the United States by the act of September 7, 1916, as amended (39 Stat. 742; 5 U. S. C. 751-793).

"Sec. 12. The Surgeon General shall designate distinctive insignia to be worn by nurses who have been graduated pursuant to training received under this act and who in accordance with their undertaking are engaged in essential civilian nursing services for the duration of the present war. Such insignia and the uniforms and insignia designated by the Surgeon General in accordance with section 2 to be worn by student nurses receiving training and courses under plans approved pursuant to this act, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn by any unauthorized person, under the penalties provided by the act of June 3, 1916 (39 Stat. 216, as amended; 10 U. S. C. 1393), for the unlawful wearing of the uniform of the United States Army, Navy, or Marine Corps."

METHOD OF VOTING BY MEMBERS OF ARMED FORCES

The Senate resumed the consideration of the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting in time of war by members of the land and naval forces absent from the place of their residence, and for other purposes.

The VICE PRESIDENT. The pending question is on agreeing to the amendment proposed by the Senator from Louisiana [Mr. OVERTON] to Senate bill 1612, on page 139, line 9, after the word "made", to insert "in accordance with State law."

Mr. TAFT. Mr. President, I offer an amendment in the nature of a substitute, and ask that it lie on the table, and also ask that copies of it be distributed to the Members of the Senate.

The VICE PRESIDENT. The amendment will lie on the table, and copies will be distributed.

Mr. TAFT. Mr. President, I think I may say that the amendment which I have just offered certainly is very much the same as the proposed legislation respecting which the President has said in his latest message to the Congress:

I consider such proposed legislation a fraud on the soldiers and sailors and marines now training and fighting for us and for our sacred rights. It is a fraud upon the American people. It would not enable any soldier to vote with any greater facility than was provided by Public Law 712, under which only a negligible number of soldiers' votes were cast.

Mr. President, I, as one of those who have proposed the State-voting method,

resent the statement by the President of the United States that the action which I propose to have the Congress take is a fraud. It is not a fraud. In my opinion, it is the proper way to provide for voting by the soldiers; and it will provide for voting by the soldiers, and the House bill will provide for voting by the soldiers. In fact, I think it is most unfortunate that the President of the United States has seen fit again to intervene in a legislative matter, and, in his intervention, to use language which is a direct insult to the Members of this body and a direct insult to the Members of the House of Representatives. At a later time I shall deal with the various statements which were made in the President's message, some of which are not true, others of which are, of course, argumentative, and, I think, unsoundly argumentative.

Mr. President, I desire to discuss the amendment in the nature of a substitute which I have proposed to the pending bill. First, I think we might recall something of the history of this legislation. On September 16, 1942, only about 6 weeks before the congressional election, Congress passed a soldiers' voting bill. It was passed hurriedly, without much consideration. Many persons did not know about it. It was not extensively used. It did not provide a Federal ballot, except as the secretary of state might see fit to print it, and he had the power to add all the State officials to that ballot. So, as he would certainly have added those officials, it would be in fact a State ballot, and not a Federal ballot.

On Monday the Senator from Connecticut referred to the reasons why that law was not used. It was not a failure, as stated in the message of the President. The President said it provided for a Federal ballot, which is not in substance true. It required the War and Navy Departments to distribute postal cards. The postal cards were not printed until shortly before the election. The evidence is that while few servicemen voted, no effort was made to have them vote at that time. In fact, at that time the position of the Army was very adverse to voting at all, because, as the Senator from Connecticut pointed out yesterday, in August the Secretary of War had said that the War Department was opposed to the authorization of voting by members of the armed forces serving outside the continental United States or in Alaska.

That was the position the Secretary of War took when the President was not running for a fourth term. His position today, when the President is running for a fourth term, is the exact opposite of what he had to say a year and a half ago, when there was only a congressional election.

Mr. President, this law was enacted, and then in June 1943, some Members of the Senate became dissatisfied with the law. They thought that a State ballot was not sufficient. They were not satisfied to have the States conform their laws to Public Law No. 712. They had had no time to do so in September 1942, but they were all preparing to do so.

Many had done so, but for some reason the administration insisted that that was not sufficient, that there must be a Federal ballot, of which 10,000,000 were to be broadcast throughout the world. A regiment of 2,000 men would receive 2,000 ballots, and the men could vote on a certain day. Those ballots were bobtail ballots, with no names on them, and nothing beyond Federal officers.

That bill was considered by the Senate in November and December. We all remember the debate. The Senate took the position that many features of it were grossly unfair and unreasonable, and designed to carry out a policy which might lead to undue influence on the soldiers. The bill was extensively amended. Finally the Senate voted to adopt the Eastland amendment, which said, in effect, "After all, we disapprove of a Federal ballot. We feel that the ballots should be State ballots." That is the fundamental issue before the Senate, and the issue which we have been considering throughout.

The Eastland version of the bill was passed on December 7. It went to the House and was considered by the House committee. A large majority of the House committee reported the bill favorably, with extensive amendments and improvements. On January 17, last week, the Rules Committee of the House approved the submission of that bill to the House of Representatives, over the strenuous opposition of the administration, and over the strenuous opposition of the chairman of the Rules Committee. Now, when it would normally come up in the House today, it has been postponed and stalled by the action of the Speaker and the majority leader. It has been postponed until next Tuesday, with the idea that before that time we may pass some other bill.

That is the legislative history. It seems to me to be an extraordinary situation. The Senate has taken a position; the House committee has taken a position; and if we pass this bill and send it to the House, and the House passes the other bill and sends it back to us, we shall become involved in a perfectly useless legislative procedure which may delay everything for months. It may seriously interfere with the right to vote, which the soldiers desire to have and are entitled to have. We might far better do nothing, and leave the situation as it is under Public Law 712. I believe the soldiers could vote satisfactorily under Public Law 712, although I question the constitutionality of some of its provisions. At least, it would be better than a complete stall and uncertainty, while no State legislature could possibly tell what action it ought to take before the middle of March or April. No one would be certain what could be done. The State legislatures must know at once what kind of a Federal law is to be enacted. If we should become involved in a fight with the House of Representatives and no bill were passed, the House would be perfectly reasonable in saying, "You sent your first bill over and we passed it. We are not going to consider some other bill now." It seems to me

that the only result would be confusion and interference.

The new bill which has been presented to this body by the committee was widely advertised in the newspapers as being a compromise bill. Mr. President, it is not a compromise bill. It is exactly the same bill which was before the Senate and which was rejected by the Senate when it adopted the Eastland amendment. There is no difference between the two measures. The same ballot commission is provided for, and the same form of ballot. There is the same suspension of registration and poll-tax laws.

Apparently there is an effort to appease Senators who feel strongly, as I do, that the States ought to pass on the question of elections, by inserting section 14 (a), which reads as follows:

SEC. 14. (a) The Commission shall have no powers or functions with respect to the determination of the validity of ballots cast under the provisions of this title; such determination shall be made by the duly constituted election officials of the appropriate districts, precincts, counties, or other voting units of the several States. Votes cast under the provisions of this title shall be canvassed, counted, and certified in each State by its proper canvassing boards in the same manner, as nearly as may be practicable, as the votes cast within its borders are canvassed, counted, and certified.

In effect, that is exactly the same provision which was in the bill which was previously before the Senate. In the first draft of the bill there was a provision that the United States War Ballot Commission should have something to say about the validity of the ballots. The Senate struck out that provision long before it reached the question of considering the Eastland amendment, so it was not then in the bill.

The pending bill adopts sections 1 and 2 of Public Law 712. Those two sections very clearly provide that in time of war any provision of State law relating to the registration of qualified voters shall be suspended, and that no person in the military service shall be required to pay a poll tax.

That is the Federal law, and that means that the State officials must regard the Federal law in counting the ballots. There seems to me to be an attempt to say to the States, "We are providing for a Federal ballot, but if you do not want to count the ballot, you do not have to count it." This is not a compromise bill. State officials are bound by Federal law if the law is valid—and presumably we would not enact a law unless we thought it was valid. State officials are bound by Federal law in determining whether or not to permit ballots to be counted. State officials can be taken to court, and the Federal law can be invoked by anyone who wishes to invoke it. Anyone can file charges against the election officials if they refuse to count a ballot under a valid Federal law. The idea that we can provide for a Federal ballot, and at the same time say to the State officials, "Do not worry; you may not like this, but you do not really have to count these ballots," is simply not true.

If it were true, it would be a fraud on the soldiers. It would be a far greater fraud than anything else in the whole bill, because it would be representing to the soldier that he could vote, and then saying to the officials, "You do not have to count the votes." That is a dilemma which is inescapable.

The fact is that this would be a Federal law. It would provide for a Federal ballot. Of course, the State officials would count the Federal ballots. Who else but the State officials could count them? Of course they would count them; but they would have to count them under the Federal law; and they would have to count them regardless of registration. They can only determine—as they could determine if the men were at home—whether or not the voters are 21 years of age, and whether or not they are citizens of the United States.

There is one other thing in the bill which is said to be a compromise, and that is the alternative provision for State voting. I believe that anyone who listened yesterday to the debate between the Senator from Michigan and the Senator from Illinois must have come to the conclusion that that section is purely window dressing. There will be no voting by State ballot if we provide a Federal ballot. Even the direct statement of the Senator from Illinois, which I read from the RECORD of January 24, 1944, is clear upon that point. He stated as follows:

It has been stated definitely over and over again, among others, by Mr. Stimson in his report, joined in by the Secretary of the Navy, that they can take to every battle front in the world one ballot, and one only, in one general election.

I assert that that is a clear statement that they propose to take only one ballot. Since the Federal ballot will be printed and distributed months ahead of the election—it can be done next month so far as that is concerned, and probably would be—certainly, the one ballot that will be sent to the soldiers is the Federal ballot. Every obstruction possible has been put in the way of any alternative voting under State ballots.

I do not wish to go into the question, but all that is necessary is to refer to the debate of Monday last. It will be concluded that the only ballot which is to be given to the soldier is the Federal ballot. The pending bill is not a compromise on that question.

It provides for a 100-percent Federal ballot. It is exactly the bill which the Senate has already rejected. There is one minor change. There has been an elimination of the requirement which was in the former bill, that reports be made by local election officials. That is the only change of any importance, and it is not very important, as I see it.

Mr. President, the amendment in the nature of a substitute which I intend to offer when the time arrives, and which I believe is on the desks of Senators, proposes that in lieu of the Federal ballot we set up a ballot commission and give it the duties which are prescribed under the pending bill. My own difficulty with the Eastland amendment and with the House bill is not the State ballot, but

the fact that no agency would be provided to work with the States in order to assure that the State ballots would be taken care of and transported to the places where they should go. I think there should be a definite Federal authority concerned with that job. I have added the following duties to the function of the Federal ballot commission:

(d) It shall be the duty of the Commission to arrange with the Postmaster General that all absent voters' ballots mailed to members of the armed forces overseas be sent to designated central post offices where they can be properly sorted and given special attention for transmission direct to the units or ships or localities where the addressees are stationed, to the end that they reach their destination at the earliest possible date. It shall further be the duty of the Commission to make such arrangements with the Post Office Department that ballots returned from overseas reach the appropriate secretary of state at the earliest possible moment. The Postmaster General of the United States is directed to cooperate in every way with the war ballot commission, the War and Navy Departments, the War Shipping Administration, and State officials to secure the most complete and the most prompt delivery and return of ballots.

I agree that if we merely ship a great number of ballots throughout the world they may wander around and many of them may not reach their destination. But every ballot will be marked "Absent Voter's Ballot, Free" and will be transported free of postage. If every ballot is sent to a central point, and a Federal agency undertakes to rearrange the ballots and put all ballots going to one unit or locality into a special bundle, and if special priority is given to that bundle in transporting it abroad, it will result in cutting down tremendously the cost and the amount of time required to reach soldiers throughout the world.

Furthermore, I provide in my amendment as follows:

(e) It shall be the duty of the Commission to communicate immediately with State officials and advise them fully with regard to the preparation of State laws in accordance with the recommendations of section 2 hereof, and containing such other features as may be desirable to facilitate the voting provided for in this act.

The officials of a number of States have waited to see what we are going to do. We should have some Federal body which can tell the secretaries of state in effect, "This is what you should do if you want to get your ballots to the servicemen abroad." The States will be only too glad to adopt those provisions.

Sections 2 and 3 of my amendment are substantially the same as the language of the House bill as amended, which is the Eastland amendment as amended by the House Committee on Elections. It provides a general expression in favor of voting, and directs that certain definite recommendations be made to the States for State legislation.

It provides for elimination of registration. It provides for acceptance of the post-card application which any soldier may send in under the provisions of Public Law 712. I understand that ten or twelve million such post cards have already been printed. They are all ready to be distributed around the world,

and they can be distributed within 30 days after this bill is passed.

My amendment then recommends that the States enact laws providing that the receipt of the post card alone shall be sufficient authority to send to a soldier an absentee voter's ballot. As I have said, ten or twelve millions of these post cards have already been printed and are ready to be sent out under the provisions of Public Law 712.

Secondly, it is recommended in subsection (b) on page 6 of my amendment that the secretary of state of each State promptly send the post cards to the election officials so that a ballot may be supplied.

Third, it is recommended that the State officials mail the ballots promptly.

Fourth, it is recommended that the ballots be marked "Official election ballot," so that special attention may be given by the war ballot commission. It is also recommended that the absentee voter's ballot be made available at least 45 days prior to the general election in 1944, and that changes be made in the State primary laws or otherwise, if that be necessary.

It is further recommended that the several States reduce the weight and bulk for air transport so that the ballots may be as light as possible.

Section 3 of the amendment provides that the Secretary of War and the Secretary of the Navy shall transmit the ballots as rapidly as possible, and that they shall be given every priority which can be given to them.

In section 4 (a) I insert the following language taken from the former bill:

The commission shall have no powers or functions with respect to the determination of the validity of ballots cast under the provisions of this act.

That language is the same as contained in the section which I read in the Green-Lucas bill.

Section 5 provides for free air-mail postage.

In section 7 there is provided a general penalty clause taken from the Green-Lucas bill. Section 8 is the non-propaganda amendment which was once adopted by the Senate and is contained, I believe, in all the bills upon this subject.

Mr. President, the theory of the amendment is that the only correct ballot is a State ballot; that the only real ballot is a State ballot, and that the Federal Government should do everything it possibly can do to facilitate the transmission of ballots to the soldiers.

I have no doubt that every important State will take action to meet the requirements of the situation. Ohio is prepared to do so. Some of the States have already taken action. Many of them are waiting to ascertain what Congress expects them to do, and what is necessary, so that the ballots may be forwarded to the soldiers. I venture to say that no State will refuse to make whatever change in its laws may be necessary in order to transport the ballots abroad.

Mr. President, the real issue in this whole fight is whether we shall have the Federal anonymous bobtail ballot which

is provided for in the Green-Lucas bill, or whether we shall have a real ballot, the kind of a ballot which the soldier has always voted. It has been said that by giving the soldiers the State ballot we deny them the right to vote. I resent that implication. We are doing everything possible to give them the right to vote, but the kind of vote which we are asked to give them in the Green-Lucas bill would be no vote whatever.

I should like to read from a statement on the subject made by a very distinguished former Democratic Governor, Mr. Charles Edison, of the State of New Jersey. Governor Edison has the respect, I believe, of everyone, but he apparently would be included under the President's general charge that those in favor of a State ballot are trying to put a fraud over on the soldiers by adopting the State ballot. Mr. Edison said:

Any proposal that members of the armed forces be restricted to voting only for candidates who seek posts in Washington is repugnant. Such a restriction on the exercise of the franchise by service men and women would only be a slight improvement over denying the right to vote altogether. They must have the opportunity, even as you and I have, to vote for a Governor, a sheriff, an assemblyman, and other State and local offices.

The relative importance of the office to be voted for makes no difference at all, when one talks of a man's right to vote. That concerns merely the intensity of the individual's desire to exercise his rights more in one case than the other.

There are many others, in and out of the service, who are vitally concerned with who is to represent them in their State legislature, for example, or as Governor or mayor. There are many who are quite as much concerned with exercising their right to vote on public questions, such as the revision of the constitution in New Jersey, as they are over Congressmen or other Federal officials.

Again I say, the only real question is, How to make it easiest for the members of the armed forces to cast legal and complete ballots?

Mr. President, the kind of ballot it is proposed by the bill to give the soldiers is in no way a real ballot. There has been no such ballot in the history of the United States. I ask, Mr. President, at this point in my remarks that a copy of that ballot be printed in the RECORD.

THE VICE PRESIDENT. Without objection, it is so ordered.

The ballot is as follows:

OFFICIAL FEDERAL WAR BALLOT

Instruction: To vote, write in the name of the candidate of your choice for each office or write in the name of his political party—Democratic, Republican, Progressive, or other.

ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

(A vote for President includes a vote for Vice President of the same party)

Write in the name of your choice for President or the name of his party—

UNITED STATES SENATOR

(Only if a Senator is to be elected in your State)

Write in the name of your choice for Senator or the name of his party—

REPRESENTATIVE IN CONGRESS FOR YOUR DISTRICT

Write in the name of your choice for Representative in Congress for your district or the name of his party—

REPRESENTATIVE AT LARGE IN CONGRESS

(Only in the States entitled thereto)

Write in the name or names of your choice for Representative at Large or the name of his party—

(Vote for 1 or 2 as the case may be)

Mr. TAFT. There are no names on the ballot whatsoever. The soldier in the case of Presidential candidate may vote either a name or he may write in a party. For Senator he may do the same thing; for Member of the House of Representatives he may do the same thing, and for Representative at Large he may do the same thing. This is to be a uniform ballot. I have no doubt that in the State of Maine, for instance, where no Senator is up for election this year, there will be thousands of votes cast for a Democrat for Senator in Maine. Is that a reasonable kind of a ballot? Many States will find themselves with thousands of votes for nonexistent candidates for Representative at Large because there is a blank on the ballot for that office, and men are not going to stop to find out whether there is a candidate running. Unfortunately, it does not make much difference to most servicemen whether there is a Senator running in their particular State, and they are not going to stop even to find out whether a Senator is running, but they are going to vote Democratic or Republican for a nonexistent candidate.

Mr. HOLMAN. Mr. President, will the Senator yield?

Mr. TAFT. I yield to the Senator from Oregon.

Mr. HOLMAN. In my State every name voted for would have to be tabulated and counted, and if the space were blank and a voter should vote his individual notions, there would be thousands upon thousands of names voted for, which would make the task of enumerating the votes cast very difficult, make the election returns very cumbersome, and cause indefinite delay.

Mr. TAFT. I agree entirely with the Senator from Oregon, but I should like to call the attention of the Senate further to how, under this proposed Federal ballot, the machinery is really going to work, how the election is going to be held.

Section 9 provides that after the ballots are distributed—and they may be distributed next month, as I say—

(b) Wherever practicable and compatible with military operations, the appropriate commanding officer shall be required—

To do what?—

(1) to designate a balloting day for voting in general elections which shall be, whenever possible, after he has received a list of candidates from all States, but which shall not be later than the date which the Secretary of War or the Secretary of the Navy, as the case may be, may fix for the area in which his command is located as the latest date which will afford a reasonable opportunity for the return of executed ballots.

Now as to the time of the election, if the Secretary of War and the Secretary of the Navy act as they have been acting up to date, they may say it will be necessary to have the election 2 months in advance of the election in November; the soldiers may be required to vote on

the 31st day of August, we will say, particularly in the more distant sections. They do not have to wait for a list of candidates. Under this bill, the Secretary of War and the Secretary of the Navy can set the election day even before there is any list of candidates available, and even if the list of candidates had arrived, what good would it do the soldiers? They see "Third Congressional District of Oregon, Mr. So-and-So and So-and-So." The chances are that not one out of ten knows whether he is in the Third Congressional District of Oregon or the Fourth Congressional District or the Second Congressional District. The list of names does not mean anything. When he gets the list of names he is absolutely and completely in the dark. He does not know who the candidates are. Conceivably, just conceivably, he may know the names of a few Senators, although I should think even that knowledge would be limited to a very small percentage of the total of those who are voting. Certainly they will not know their Representative in Congress. So we have here a completely anonymous vote for Members of the House of Representatives.

When it comes to the President, the situation is different; in fact, my opinion is that this bill has been gotten up so that the election of President may dominate the election for Congress, because, of course, the soldiers will know the name of Roosevelt and they will probably know the name of the Republican candidate, as it will be in the newspapers, but they will not know anything about the candidate for Senator and Member of the House of Representatives.

Mr. President, that is not a democratic form of voting. For years many States have been doing all they can to prevent having a straight party ballot. The State of Massachusetts provides that there shall be no party ballot whatever. The voter simply sees the name, and after the name perhaps the word "Democrat."

Mr. BRIDGES. Mr. President, will the Senator yield?

Mr. TAFT. I yield to the Senator from New Hampshire.

Mr. BRIDGES. In the Senator's judgment, are not a large percentage of the men who are serving today in the Army and Navy of such age that they probably fail to remember any other President than Franklin D. Roosevelt as a result of his 11 years' service to date?

Mr. TAFT. All I can say is that he will have a tremendous advertising advantage over whoever may be his opponent.

Mr. BRIDGES. How would the Senator class the message sent to the Senate today? Would he not take that as a sort of official announcement of Mr. Roosevelt's fourth-term candidacy?

Mr. TAFT. Yes; but, if the Senator will allow me, I think the fourth-term candidacy was announced for all practical purposes even before the message was sent to the Senate.

Mr. President, we have been trying to get the people to vote for men, to vote for them because of their records, because of their ability, and even because

of their names, if you please. Now we wipe all that out and say to the soldiers, "You have got to vote Democratic or Republican."

I do not know how early this election will be held, but the issues will not be presented. It is going to lie within the discretion of the Secretary of War and the Secretary of the Navy to choose a particular time when they think the sentiment of a particular section of the country will be favorable to the side they may wish to favor. They can pick out a time for the elections, and then what happens?

The commanding officer is:

(2) to cause lists of candidates to be posted—

If he has them; he may not have them—

and otherwise made available at conspicuous and convenient places prior to and on the balloting day and to cause copies of explanations of voting procedure and all other necessary information to be furnished to members of his unit and civilians attached to and serving with such unit and entitled to vote under this title.

It sounds harmless "to cause copies of explanations of voting procedure" to be posted, but when that kind of thing is done in the Army in effect it is an order. Here comes the commanding officer's order: "Voting will be held on such and such a day. These are the instructions that you are to follow." It is in effect an order to the men to go to the polls on that date.

(3) On the designated day to cause ballots and envelopes to be distributed, to provide a convenient place for marking them in secret, and to cause executed ballots to be collected and delivered for transmission to the Commission.

In short, Mr. President, 10,000,000 servicemen are to be marched up to the polls, just as the W. P. A. workers were marched to the polls in some of the elections held in the past. The servicemen are to be marched up to the polls and handed a bobtail Federal ballot, with no names on it, and they are to be told in effect, "Vote this ballot."

If there is a State ballot, the ballots come in one at a time. When a soldier receives the ballot, it is a familiar document to him. He may know the election officials who sign his notice. The soldier takes it into his tent, looks it over, sees the names of some old friends on the ballot, and exercises the right of suffrage in the manner in which people have exercised it throughout the United States for many years. One reason why I think we should have a State ballot is that there would be on the ballot names of people the voter would know, and he could choose between them.

Even so, he would be handicapped, and the reason why many soldiers will not vote, if the method provided in the House bill is pursued, is that they will not know the issues at home; they will not know the men for whom they are supposed to vote; and, therefore, they will feel they should not vote, or they will not be interested. Many of them will not even ask for absent voters' ballots because they will not feel that they are

qualified to vote. But that is no reason for excluding them. They should be given the right to vote, and certainly they should be given such a ballot as will enable them to know the candidates who are running for office, to vote for all the candidates, and to see the whole political picture at home, in their own village, or on the farm from which they come, so that they may vote with some intelligence and with some interest.

Mr. President, the proposal before the Senate of course would exclude in many cases the possibility of an independent running. We are familiar with the case in New York in which a man named Aurelio was nominated for the bench by both the Democratic and Republican parties. Both parties tried to get his name off the ticket, but his name was on the ballot already, so an independent undertook to run. No independent would be allowed to run under the form of ballot now proposed. No independent could ever be heard of, his name would not be on the ballot.

Let us take a case in California. Suppose a Democrat carries both the Democratic and Republican primaries, but the Republicans feel later that the issues have changed between the time of the primary and the time of the election so that they desire to put up a man. He would have to run as an independent against the candidate who had the two nominations. The soldiers could not vote for him; they would not know he was running. If they voted "Democratic" or "Republican," the one who got the nomination in both primaries would get the votes. There is a complete and arbitrary exclusion of everything, in effect, except voting Democratic or voting Republican, or voting Communist or voting Socialist, if you please.

Mr. President, in my opinion the proposed ballot is unfair to all sitting Representatives and Senators. The strength of the propaganda which is now being disseminated in behalf of the bill in my opinion is largely exerted to defeat Congress. Those behind it are the same ones who want to wipe out this Congress. The name of a Congressman who is sitting is known, his name appears every day in the papers, he has made a good record, and naturally he gets more votes than the one who has not made any record, or who perhaps has been in before and has been defeated. The man who is in has the advantage of his name being known, or at least his name is much more likely to be known. But if the only thing a soldier knows is the name of the President, he then votes "Democratic," which is the natural thing to do if one desires to vote for the Democratic candidate for President, and if he does not know who the Democratic candidates for Representative and Senator are, he votes "Democratic." So far as I am concerned, I do not know whether President Roosevelt will run ahead of his ticket, as he has in the recent elections, but undoubtedly those who drafted the pending bill think he will, and they think that will pull through those running on the ticket with him.

The general effort is to subordinate the Congress to the Executive. Congress is

a coordinate body, but the only interest of those who prepared this bill is in the election of the President, and the effort is to subordinate the election of Representatives and Senators to the Presidential election.

At this point I should like to call attention to a letter from the National Grange dated January 24, addressed to Members of Congress. The letter reads:

We regard this bobtail Federal ballot as a wholly unwarranted and gratuitous slap at the dignity and sovereignty of the States, which is resented by those who believe in our dual system of government.

Any State that has not already acted should without delay take proper steps to facilitate soldier voting. Holding elections is a State and not a Federal function. The Federal Government has no more right to conduct an election than the States have to coin money. Any ballot issued by the Federal Government would, therefore, be spurious and counterfeit. It might invalidate the whole election. However, the Federal Government should cooperate in distributing and collecting the ballots among those who are in the armed forces.

Just because we are at war is no reason why the Constitution should be nullified or evaded in this or any other respect.

That is the sentiment of the National Grange, the representative of millions of farmers in the United States.

Mr. LUCAS. Mr. President—

The PRESIDING OFFICER (Mr. MURDOCK in the chair). Does the Senator from Ohio yield to the Senator from Illinois?

Mr. TAFT. I yield.

Mr. LUCAS. The Senator realizes, does he not, that the National Grange was the only witness appearing before the Committee on Privileges and Elections and testifying against the pending bill?

Mr. TAFT. But they are now included in the general list of defrauders under the terms of the President's message.

Mr. President, in my opinion the bill is unconstitutional. I do not see any manner in which its constitutionality can be upheld. I quite agree that that applies also to the provisions of Public Law 712. The fact was not called to the attention of the Senate at the time that measure was before us. It was not discussed, so far as I know. I did not notice or even think about the point when the bill was under consideration.

I think we could perhaps provide some such ballot as that proposed for the election of Senators and Representatives, but not for Presidential electors, or for the election of the President of the United States. The Constitution provides very clearly that—

The executive power shall be vested in a President of the United States—

And—

each State shall appoint, in such manner as the legislature thereof may direct—

Each State shall appoint, in such manner as the legislature thereof may direct—

a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

It then proceeds:

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

The electors meet usually on a day in January, after the election. The only power given to Congress regarding the election of electors for the Presidency is that "Congress may determine the time of choosing the electors." That is the only function the Congress has in the matter.

Mr. President, that is particularly significant, because when we come to the choosing of Senators and Representatives, we find that there is a very different provision.

That matter is dealt with in section 4 of article I in which it is said:

The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

I take it that that provision referred to election of Senators by the legislature, and Congress could not tell the legislature where it should meet. But Congress could make or alter regulations relating to the times, places, and manner of holding elections for Senators and Representatives.

The question whether the poll tax is a qualification, and all that, raises some doubt about the validity of the provisions of the measure for electing Representatives and Senators, but I submit there can be no doubt about the inability of Congress to regulate a Presidential election in any manner except as to fixing the day on which the election shall be held. Not only is there no provision for Congress to do it, as I have pointed out, but the provision is that each State shall appoint, "in such manner as the legislature thereof may direct," a number of electors.

Mr. President, there could not be clearer language. There is no possible way that I can see by which the Congress has anything to say about how Presidential electors shall be elected.

The attempt by the committee, when the bill was previously before the Senate, to make its provisions constitutional, rests upon the war powers. The argument made by the committee in its report is rather tenuous in behalf of the constitutionality of the measure. The report states:

This bill is not a general bill operative in peacetime, but is limited to wartime. It is clear that both Public Law 712 and S. 1285 are within the war powers of Congress under the Constitution.

Mr. President, so far as I know Congress has no such war power.

Having determined that deprivation of the political rights of those in the armed forces would seriously impair their morale and that the more effective prosecution of the war requires that political rights shall not be lost by reason of war service, Congress may properly act to protect those political rights. Pursuant to the same determination, other democratic countries have estab-

lished effective means of taking the votes of their servicemen during the time of war.

Of course, the answer to that statement, Mr. President, is that the other democratic countries do not have our Constitution.

In the Soldiers' and Sailors' Relief Act the Congress passed a comprehensive measure to protect the pecuniary rights of members of the armed forces. The same considerations justify protection of their political rights.

Thus, Mr. President, the issues which would arise with respect to the rights of Congress in time of peace do not arise with respect to this measure under the war powers.

Mr. President, if Congress has some power outside the Constitution to conduct elections in a manner different from that which the Constitution prescribes, then there is no limit to what Congress may do. Congress may say just as well that it is impossible to reach all these men; therefore they are deprived of their political rights; therefore we must not have any elections this year; therefore we can put off this election until next year or for a couple of years until the war is over.

There is no implied war power to modify the express provisions of the Constitution as to the times and the manner in which men should be elected. There simply is no such constitutional doctrine. There is no right to change the provisions for choosing electors in such manner as the legislatures of the States shall prescribe. If we want to act constitutionally we must proceed in the way it is proposed to proceed in the substitute I have submitted. We can help, we can do everything to suggest to the legislature what it should do, and there is every reason to think the legislature will do it, but we cannot usurp the powers of the legislature to prescribe the times and manner of holding elections for Presidential electors.

Mr. WHITE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Gillette	Overton
Andrews	Green	Pepper
Bailey	Guffey	Radcliffe
Ball	Gurney	Reed
Bankhead	Hatch	Revercomb
Barkley	Hawkes	Reynolds
Bilbo	Hayden	Robertson
Bone	Hill	Russell
Brewster	Holman	Shipstead
Bridges	Johnson, Colo.	Smith
Brooks	Kilgore	Stewart
Buck	La Follette	Taft
Burton	Langer	Thomas, Idaho
Bushfield	Lodge	Thomas, Okla.
Butler	Lucas	Thomas, Utah
Byrd	McCarran	Tobey
Capper	McClellan	Truman
Caraway	McFarland	Tunnell
Clark, Idaho	McKellar	Tydings
Clark, Mo.	Maloney	Vandenberg
Connally	Maybank	Wagner
Danaher	Mead	Wallgren
Davis	Millikin	Walsh, Mass.
Downey	Moore	Wheeler
Eastland	Murdock	Wherry
Ellender	Murray	White
Ferguson	Nye	Willis
George	O'Daniel	Wilson
Gerry	O'Mahoney	

The PRESIDING OFFICER. Eighty-six Senators have answered to their names. A quorum is present.

Mr. TAFT. Mr. President, the present provision of the Constitution which shows so clearly that there is no possible constitutional basis for having Congress provide the method by which Presidential electors may be elected is specifically given by the Constitution to the States. The constitutional provision is that—

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors.

The only power given to Congress is to determine the time of choosing the electors.

Mr. President, if that constitutional provision can be set aside under some specious theory of war powers, then we can set aside the election; we can make any change we think is necessary in time of war; we can continue indefinitely the term of the President of the United States.

That is not the intention. The war powers do not give Congress any power to change the term, change the method of election, or do anything which is specifically conferred by the Constitution upon the States.

If we conduct this election, and if the result of the election is determined by these votes, and if the question of invalidity is raised, and goes to the courts, we shall face again one of the most serious emergencies, one of the most serious crises that a republic can face—a contested national election which may lead to civil war. In other countries it has led to civil war. In this country, in the Hayes-Tilden controversy, we were very close to civil war; and if Mr. Tilden had not voluntarily withdrawn, no one can tell what would have happened in 1876 in the United States.

Now we are to face this problem right in the midst of a tremendous world war, a tremendous war to which we should devote our entire effort; and the entire morale of the people and the morale of the soldiers are likely to be destroyed by an internal contest as to who was legally elected President of the United States. We do not want to have any doubts. If the procedure is seriously doubtful, we do not want to use it. We ought to proceed in a constitutional way. We should avoid the catastrophe of having an election contest in time of war.

Mr. President, there is only one argument against the proposal I have presented, against the bill which was passed by the Senate, the bill which was approved by the Elections Committee of the House of Representatives, the bill in favor of which I understand there is a clear majority of 50 or 60 in the House of Representatives, if the leaders would stop stalling, and would let the bill come to a vote there.

There is only one possible argument against it. That statement is not my statement, but is the statement of the Senator from Illinois [Mr. LUCAS]. On Monday he said:

I also know that millions of persons are wondering whether or not they cannot have a complete ballot covering all the State officials in the same way we are trying to provide for Federal officials by the Federal ballot. I wish it could be done. If it could be done, there would be no reason for bringing on the floor of the Senate the bill which is now sponsored by the Senator from Rhode Island [Mr. GREEN] and myself—

If it can be done.

The one argument against the State ballot is that it cannot be done. The only witnesses who claim that it cannot be done are the Secretary of War and the Secretary of the Navy. The only testimony relating to the subject which comes from the Army is that "We cannot do it. We cannot take State ballots abroad." I think Congress itself can pass upon that kind of a question of fact. We know the facts. We know whether it is possible to take State ballots to soldiers.

A day or two ago I had something to say about the actual weight of ballots. It is said that the ballots are too heavy, and cannot be taken by air, and that they cannot be delivered to the soldiers in time except by air.

Incidentally, none of these arguments applies to persons voting in this country. If the Senator admits that the only reason for not using State ballots is that they cannot be delivered to the soldiers, that argument certainly does not apply to camps in the United States, because we certainly can get absentee ballots to soldiers in the United States. There is no time-limitation factor, and there is no space factor. We can deliver ballots to them without the slightest difficulty. On the basis of the Senator's own argument, certainly all persons in the United States ought to be exempted from the provisions of the bill and they ought to vote under State ballots.

But how about the men abroad? By November 1 there may be as many as 6,000,000 men in the armed forces outside the United States. I do not know. No one knows; but we have had various figures which indicate that. I suppose that if there were 6,000,000 men there would probably be not more than 4,000,000 applications for State ballots, because many of the men are under the voting age. There must be several million men in the armed forces who are under age. A considerable proportion of the 6,000,000 would be under age.

Suppose 4,000,000 ballots were involved. I checked with the secretary of state of Ohio, and he tells me that in Ohio the absentee voter's ballot, prepared and ready for mailing, weighs 2 ounces. The Senator from Illinois [Mr. BROOKS] tells me that he has checked very carefully the Illinois ballot and that the Illinois ballot weighs considerably less.

Mr. BROOKS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. BROOKS. During the recent meeting of the special session of the legislature of Illinois, for the information of the legislature the general ballot of

1942 was weighed, and it was found that the whole State ballot, with the sheet of instructions, the envelope in which it was to be returned, and the heavy manila envelope in which it was sent out weighed a total of 1.2 ounces. It is believed that if it is necessary the weight of the entire absentee ballot in Illinois can be reduced to eight-tenths of an ounce. In any event, it is planned to reduce it to not more than 1 ounce. Certainly a 1-ounce ballot can be delivered to the members of the armed forces anywhere in the world.

Mr. TAFT. I thank the Senator from Illinois. That is the general testimony. The average weight of absentee voters' ballots is about 2 ounces. However, the statutes today require the use of very heavy paper. The general testimony is that the weight of the ballot can be reduced to 1 ounce, and that the various legislatures which are meeting can bring about that change if it is necessary to make a change in the statute.

Assume that the average weight is 2 ounces. That would mean 8 ballots to the pound. It would mean that 4,000,000 ballots would weigh 500,000 pounds, or 250 tons for all ballots to all parts of the world. If the weight could be reduced to 1 ounce, the total weight would be only 125 tons to all parts of the world.

Of course, if the ballots can be shipped by boat, there is no objection whatever on the score of weight. To most of our troops ballots could be shipped by boat. Think for a moment. The President of the United States left this country and went to Teheran and came back in 35 days, which included the time consumed by all the conferences which he held. It is reported that he went over the Atlantic both ways in a speedy cruiser, that he did not fly, as he had done before. Certainly if the President and literally tons of generals and admirals can be transported to Teheran and back in 35 days, we can take a few tons of ballots to Teheran and back in 35 days. That represents about the maximum distance. India is slightly farther away, but not a great deal farther than Teheran. That is about as far as it would be necessary to send any ballots.

In connection with the Christmas mail for the boys last year, the Army announced that it would be prepared to take 10,000,000 packages weighing 5 pounds each, which represents a total of 50,000,000 pounds, or 25,000 tons of packages. On October 15 last year the New York office announced that eight and a half million packages had left the port of New York alone, and that 4,000,000 more were expected to go within a few days. That is a total of twelve and a half million packages, representing a weight of 31,250 tons, shipped by boat. Of course, if the ballots can be transported by boat, there is no question of the possibility of delivering them.

Mr. HOLMAN. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. HOLMAN. The department of the Army known as the Department of Special Services, or the morale branch

of the Army, is spending \$30,000,000 a year for various kinds of publications which are being distributed to soldiers all over the world. I believe that the tonnage of these shipments could be curtailed so that shipping space could be found for sending ballots to soldiers in the normal, constitutional way.

Mr. TAFT. I certainly see no reason why all soldiers in the European, African, and Italian theaters could not get their ballots by mail. There is no reason why a special steamer could not be sent with the ballots, if that is necessary. They could be collected in New York. The largest ships make the trip in about 5 days. Convoys make it within 10 days. There certainly is no earthly reason I can see why we should have to fly these ballots over the Atlantic.

If 250 tons represents the total weight, I believe that at least 150 tons could be handled in that manner. That would leave 100 tons. As I understand, one of the large cargo planes carries a cargo of about 5 tons. It would require 20 such planes to transport the entire load which must be flown. I believe that all the ballots could be delivered to Alaska by boat. If the weight of the ballot were reduced to 1 ounce, the total weight of ballots to be transported by air would be 50 tons, which is the cargo load of 10 planes.

Mr. President, if this matter is as important as it is represented to be—and I believe it is—and if soldiers should have the right to vote, certainly the Army and Navy could find the planes to take the ballots abroad. Last month we produced approximately 8,000 planes. I have no doubt that there are all sorts of things in the Army service which could be temporarily laid aside. Of course, there are many essential things which must come first—those things dealing directly with fighting on the various fronts—but I venture to say that there are hundreds of thousands of tons of material which could be delayed in order that 50 tons of ballots might reach members of the armed forces throughout the world.

Mr. President, judging from the testimony given by representatives of the Army and Navy, and the way in which the two departments have acted, the truth is that they do not want to take State ballots to the soldiers. They have raised every possible objection to doing so. They are determined against such a ballot. In 1942 Secretary Stimson said that the War Department was opposed to any authorization of voting by members of the armed forces. That was a year and a half ago. He now takes the position that it is an absolute war essential that the men be given the right to vote, and that they be given the right to vote by a particular method, in which they can be lined up and marched to the polls.

Mr. President, I have before me a list of the average air carriage time from Springfield, Ill., to various points throughout the world. The longest time required for any such point is 29½ days, perhaps to Murmansk and return. I ask unanimous consent that the list be printed in the RECORD at this point as a part of my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Location of soldier desiring to vote and average air carriage time to Springfield, Ill., 1 round trip

	Days
(a) Alaskan area:	
Nearest.....	10
Farthest.....	13
(b) Pacific area:	
Nearest.....	14
Farthest.....	26
(c) Canal Zone.....	7½
(d) Caribbean area:	
Nearest.....	8
Farthest.....	12
(e) South Atlantic area:	
Nearest.....	10
Farthest.....	12
(f) Middle East area:	
Nearest.....	14
Farthest.....	16
(g) Persian Gulf area.....	18
(h) Far East area:	
Nearest.....	26
Farthest.....	32
(i) Mediterranean area:	
Nearest long haul.....	18
Nearest short haul.....	13½
Farthest long haul.....	22
Farthest short haul.....	17½
(j) North Atlantic area:	
Nearest.....	9½
Farthest.....	29½

Mr. TAFT. Mr. President, it seems to the claim that this cannot be done is simply not founded on fact. A few days ago I questioned the good faith of the Army. The representatives of the Army come in and take a position for one measure as against another measure. They pay no attention to the constitutional questions involved. They pay no attention to the question of the form of the ballot. They do not care. But, they take a strong position for one bill and an equally strong position against another, on the sole ground, apparently, that they claim they cannot transport the State ballots abroad. It will be a little more trouble to do so. But, if these ballots are gathered up by the post-office officials and sorted out so that the ones which are to be sent to Europe may be put together, and put on the fastest ship which can be used to take them to Europe, and every other locality dealt with in the same way, I see no reason whatever why every soldier should not receive a ballot requested by him of his election officials back home, and have the right to vote it as one votes a ballot containing names of candidates for every office to which the voter is entitled to vote.

Mr. President, with the addition of the last message from the President, the pending bill is now the subject of perhaps the greatest pressure propaganda this Congress has met. It is interesting to me to note from where the pressure is coming. In the first place, it comes from the C. I. O. political action committee. When I was at home during Christmas I was called upon by a committee of five gentlemen representing the C. I. O. political action committee. They spent more than half their time in urging the Federal ballot. The C. I. O. does not care about the Federal ballot. They are interested only in the election. They are interested in the effect which the ballot will have upon the election. I

have before me the C. I. O. News of January 17. There is contained in it an article which states as follows:

Action: Wires and letters and delegations should pour in on both Representatives and Senators to push for a uniform, Federal system of service voting, including merchant seamen, with penalties to prevent State officials from refusing to count the ballots after they're in.

Speed is vital, since the poll-tax-reactionary Republican gang is hoping to rush these "compromise measures" through as early as possible, before the public indignation gets any higher. There is also a strong danger that the House Rules Committee will put a gag rule on the Eastland-McClellan bill to prevent amendments. This should be protested as strongly as possible.

Well, they have protested all right. We have all received letters, telegrams, and delegations. Although I have talked to two C. I. O. delegations I have declined to see three more simply because I have not had the time to go over the same arguments with them.

The article states:

Wires, letters, and delegations should pour in on both Representatives and Senators to push for a uniform Federal system.

Although in my opinion it was unnecessary, Mr. Hillman, the head of the C. I. O. political action committee, even felt called upon to telegraph the Postmaster General, Mr. Frank Walker, who is also chairman of the Democratic National Committee. He said:

We believe that the reaffirmation at this time of your unequivocal support for a uniform, simple Federal ballot, administered by a bipartisan Federal ballot commission, would do much to reassure the families of our heroic servicemen.

The C. I. O. political-action committee is the author of various publications. I have before me one called *Keeping Score To Win the War—the Record of Congress and What To Do About It*.

Then in the usual propaganda-smear style there is printed the record of every Senator during the past year on various matters in which the C. I. O. has some interest. If they like the way a Senator has voted they put a plus mark near his name, and if otherwise, they put a minus mark. They have announced that they will, and they are now engaged in trying to, purge from the House—and I believe from the Senate also—every Member who voted for the Smith-Connally Act. They are interested in purging Congress.

Mr. President, when I try to figure out the reason for the tremendous propaganda which is taking place to force us to do something against the Constitution, to force us to adopt a form of ballot which will be contrary to every principle of American democratic government, I can only account for it in one way. These persons must feel that such form of Federal ballot would result in the election of the President for a fourth term, and in the defeat of a very considerable number of the present Members of Congress. They may be right in that assumption or they may be wrong. However, I can understand what their feeling is. They know that they have lost at

home. They know that in the United States proper the New Deal and the President will be overwhelmingly defeated. And so they hope that they may turn to the servicemen abroad who are not thoroughly familiar with conditions at home. More than that, they hope that if the proposed form of ballot is adopted, and millions of the ballots are sent all over the world, that when the soldiers are lined up and marched into polling booths 2 months, or 40 days, or 30 days before election, perhaps a psychological condition can be created in which there will be an overwhelming vote for the side for which they wish the soldiers to vote. Such a thing may happen to a great body of men who are off by themselves. We cannot tell. I think those who may hope for such a situation to arise are mistaken. I think that when the men have the opportunity to vote they will return to their original feelings which they had in the United States before they left. I think we will find that most of them will vote as the people are voting back home. However, I do not know. I know that the C. I. O. and the other fourth-termers think there is a chance for a sweep in their direction.

The C. I. O. political action committee does not care about the effect on labor; it is not a C. I. O. affair. It has nothing to do with labor unions. If the C. I. O. were placed on a ballot sent to the servicemen against someone else—and I should like to have the C. I. O. on the other side of the question from the side I am on—I have no doubt that so far as the C. I. O. is concerned the vote among the servicemen would be five or six to one against the C. I. O.

This is not a C. I. O. matter. This is a fourth-term matter. This is the manner in which the C. I. O. hope to rescue the cause in which they are interested. Of course, the only reason for setting up the C. I. O. political action committee was to secure a fourth term. Are they correct or not? I do not know. Yet, it seems to me that it would be violating every constitutional procedure to set up a method of election in which some mass psychology could be used. The proponents of the bill know that the Government has complete control of all propaganda which reaches the soldiers. They know that everything going abroad can do so only through the channels which are approved of here in Washington. The newspapers *Yank* and *Stars* and *Stripes*, are really edited from Washington. During the First World War the editors conducted the papers abroad very much as they pleased. Nobody paid any attention to them. Today the newspapers are said to be edited here and their news is written here in the United States.

I do not believe that the objects of the C. I. O. of which I have spoken can be accomplished, but I believe I have given the only explanation which can be made of the tremendous propaganda which the C. I. O. political action committee is undertaking to disseminate.

I have before me a book entitled "Labor Political Action—Back Bullets With Ballots." It is a general attack on Congress.

Mr. HOLMAN. Mr. President, will the Senator yield?

Mr. TAFT. I yield to the Senator from Oregon.

Mr. HOLMAN. The C. I. O. has undertaken to find a candidate to oppose me on account of my vote on the Connally bill and for my general attitude intended to promote the war effort, rather than cater to the political support of the strike masters. It is commonly reported in my State that the strike masters and the racketeers of labor have set aside approximately \$40,000 as a campaign contribution for the purpose of encouraging a candidate agreeable to their purposes to oppose me in the coming election, and that they have been running up and down my State looking for such a willing candidate. I understand that one of the New Dealers here, claiming to be a Republican, is in a favorable frame of mind to accept their campaign contribution, their support, and their dictation.

Mr. TAFT. The C. I. O. has a right to do anything it pleases. I know many C. I. O. members who do not agree at all with the kind of action that is being taken by the leaders of the Congress of Industrial Organizations and by C. I. O. political committees. But when they come here and put on a tremendous propaganda against us in connection with the pending voting bill it certainly is fair for us to examine the motives behind their action. I have no doubt that it is a political motive, one for which they think at least there is a chance and a possibility of success. They have not seen the soldiers; they cannot be certain; but we are creating a condition in which they think mass psychology can bring a one-sided vote. The Secretary of War and the Secretary of the Navy can name particular dates; they can pick in each area the dates when the election will be held. They can have it held just after a great victory or they can have it held just before what may prove to be a questionable operation. They can prepare the men in such a way as they see fit. They can emphasize the prestige of the President in the election. But the possibility of Senators and Congressmen reaching those men is nil. The Republican candidate for President presumably will be able to present his views. Under the amendment I offer, he can have a political broadcast, but so far as you and I, the Members of this body, are concerned, and so far as the candidates of the House of Representatives are concerned, there is not the slightest possibility that we or they can present to the servicemen the arguments for our election. In one way or another, the C. I. O. material will get across to the soldiers, but I do not know any way by which I can combat it or explain or defend the votes I have cast. That is the condition we are creating. In my opinion Congress is practically being asked to commit suicide, to abandon its independence, and to subject the voting for Congress to the voting for the Chief Executive.

Mr. President, I cannot say how strongly I feel on this subject; I cannot

say how thoroughly convinced I am that the only kind of ballot that ought to be given the soldiers is the same kind of ballot they have always had, a real ballot. I cannot say how strongly I feel about the propaganda that is being spread around.

I may add that the *Daily Worker* and the Communist group are conducting this same kind of propaganda that is being conducted by the C. I. O. The Communist Party National Committee has decided, as we know, to abolish itself as a political party. In effect, the Communist Party has decided to consolidate itself with the fourth-term movement and turn itself simply into a propaganda agency. The Communist Party is urging in every number of the *Daily Worker* and every number of the *New Masses* the passage of this bill and urging their readers to send telegrams and letters to the Members of this body.

I have a copy of *PM*, which in effect is a Communist paper, so to speak—the uptown Communist paper—of December 15, saying:

PM readers are urged to write or wire any or all members of this committee—

That is the House Elections Committee—

asking them to join with EUGENE WORLEY in his plan to wage an uncompromising battle against the Senate's mockery of the soldier-vote legislation.

We have propaganda from every administration columnist and every administration radio commentator, and we now have it all backed up by the President's message, the like of which for bitterness and for impugning the motives of those who oppose him I have never seen.

Mr. President, I desire to submit my own amendment, but I do not want to insist upon the exact terms of the amendment. The issue here is a question of a ballot; the issue is whether we are going to send the soldiers and sailors a State ballot, a ballot to which they are entitled, or whether we are going to give them a Federal bobtail, anonymous ballot, a ballot on which the name of no Member of the House or Senate ever appears. The question is whether there shall be an election in which no Member of the House and no Senator can appeal to the servicemen to vote for him or state any reasons why they should vote for him; an election in which he is utterly losing all the advantage of any good work he may have done; an election in which the voters are asked to go back to a plan which is thoroughly discredited in every democracy, that of voting for men they do not know, whose names they do not know, simply by indicating on the ballot whether they, the voters, are Democrats or Republicans.

In effect what is handed the servicemen is nothing in the world but a Gallup Poll preference, and they are going to treat it in just about the same way they treat a Gallup Poll preference, the kind of poll Mr. Gallup takes on a question such as "Are you going to vote Democratic next time or Republican?" Nobody cares much. Perhaps the soldier has not made up his mind, or does not

look upon it seriously, and the soldiers are not going to look upon this vote as anything serious. In my opinion they are simply going to vote because they are required to vote. They are going to vote even though they do not want to vote because they may not think or know enough about the subject to vote. Frankly, I do not know what may happen, but I do know that we would be perpetrating an unconstitutional, undemocratic ballot on both the soldier, the candidate, and the American people.

Mr. LUCAS. It always amuses me, Mr. President, to hear those who are attempting to obstruct a measure of this kind rely upon the Communists, the C. I. O., and other organizations to aid them in their cause. Everyone knows that those are the old red herrings which have been drawn across the trail in the Senate of the United States for a long, long time.

On Monday I placed in the CONGRESSIONAL RECORD some editorials that strongly favor the bill now pending before the Senate. There was one from the Stars and Stripes entitled "Bullets and Ballots." Notwithstanding what the able Senator from Ohio said about the material that appears in the Stars and Stripes being written in Washington, D. C., the Senator from Ohio is just as mistaken in that statement as he is in about 50 percent of the statements he has been making on the floor of the Senate today. The truth of the matter is that Stars and Stripes and Yank and all the other service papers are absolutely controlled by the men themselves. They edit the newspapers, they get out the news, they have their own reporters, and when the Senator from Ohio says that Washington, D. C., prepares the statements for these papers, he does not know what he is talking about. The Stars and Stripes is not a communistic newspaper. It is very much American.

The Washington Star, another very fine and conservative newspaper, which everyone knows is not communistic in any way, recently published a fine editorial entitled "A Sound Compromise."

The St. Louis Post-Dispatch is one of the outstanding newspapers in this country, and it contained an editorial, which I placed in the RECORD, entitled "What New Objections?" I imagine that after they hear what the Senator from Ohio said today they will have another editorial on "More Objections."

I have here also an editorial from the Richmond (Va.) Times-Dispatch headlined "Simpson, Knox, and the vote." The Times-Dispatch is hardly a communistic newspaper.

Here is a very fine editorial from the Washington Post entitled "Congressional Duty." There is also one from the Louisville Courier-Journal entitled, "A Nightmare for Senators." I doubt if anyone would say that any of those newspapers have any communistic tinge whatsoever.

Mr. GREEN. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I am glad to yield.

Mr. GREEN. I wonder whether the Senator intentionally or unintentionally

omitted the "communistic" New York Herald Tribune.

Mr. LUCAS. I was just about to come to that. I hold in my hand an editorial from the bible of the Republican Party, the Herald Tribune of New York, and for the benefit of the Senator from Ohio, who apparently does not keep up with what the Herald Tribune is saying—and there may be a very good reason for that—I shall read exactly what they said on yesterday:

THE SERVICE VOTE

When the Senate moved yesterday to reconsider its action of last month killing the Federal service-vote bill, it was bowing to the force of a popular sentiment which simply will not permit this matter to be shelved in political and parliamentary evasions. No doubt it would be much more comfortable and convenient for everyone if the whole embarrassing business could just be put quietly away somewhere and forgotten.

That is exactly what the Senator from Ohio wants to do. He just wants to shelve this proposal somewhere in a pigeonhole here in the Capitol, and forget it, because the whole trend of his speech was one of fear, fear of what the boys overseas are going to do. Yet if Mr. Spangler is correct in the poll which he took in England, the Senator should not have any fear at all, because, according to that, 56 percent of the boys are going to vote the Republican ticket.

The editorial in the Herald Tribune continues:

Then there are three obvious reasons why this question must be faced and settled in a straightforward fashion, but it cannot be put away because the basic issues involved are too plain and too compelling.

Mr. BARKLEY. Will the Senator from Illinois yield?

Mr. LUCAS. I yield.

Mr. BARKLEY. Does the Senator know whether in the poll taken by Brother Spangler the names of any candidates were on the ballots which these boys voted, or whether they voted as to whether they would be Democratic or Republican?

Mr. LUCAS. I know of no names on the ballot. In fact, the taking of the poll has been shrouded in mystery. Mr. Spangler, in the Chicago meeting, started to give the press a lot of information about it, but he got his foot in his mouth, and began to cover up. He did not realize he was violating the Army regulations in taking the poll. A man holding the responsible position filled by Mr. Spangler should have known that; but he did not.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TAFT. Frankly, I see no reason why he should not take the poll. I should like to read the Senator a letter from Mr. George Gallup, in which he says he took a poll of soldiers—

Mr. LUCAS. I do not yield for a speech, because if I yield to the Senator he usually proceeds for about 7 minutes, and while he usually makes a statement of interest, I have already listened to him throughout the afternoon—

Mr. TAFT. I would have been glad to yield to the Senator during my remarks.

Mr. LUCAS. I did not care to interrupt the Senator. I am answering him now, in my own time.

The Herald Tribune article proceeds:

There are three obvious reasons why this question must be faced and settled in a straightforward fashion. The first is the deep popular feeling that a man who is drafted to fight for his country should not thereby be deprived of all his constitutional rights to have a voice in its affairs. The second is the very practical reason that an electoral decision as important as that now impending should not be left open to any possible question on the ground that ten-million-odd citizens were in effect disfranchised.

That is exactly what the Senator from Ohio wants done.

And the third reason is perhaps the most important of all. Whether the servicemen intend to vote in any great numbers or not, there is a good deal of accumulating evidence that they value the right to vote. They are already sufficiently critical of the home front.

And this should please the Senator:

They are already too much imbued with the notion that politicians, labor magnates, and armchair patriots in general have sent them out to do the dying while themselves conducting business and pleasure as usual at home. The servicemen are beginning to make their right to a vote into a kind of test question.

That is correct, Mr. President. The editorial continues:

These are the three chief reasons for political action. If the statesmen had faced up to them more honestly to begin with, they would not have involved themselves in their present difficulties, confusions, and contradictions. But to this newspaper it still does not seem too late for a frank and rational solution.

That is correct; and I regret to find the senior Senator from Ohio here today adding confusion and chaos to an already uncertain situation.

The editorial concludes:

Stripped of its ulterior and legalistic complications, the present issue seems to come down largely to a technical one. According to the Secretary of War, it is not physically possible to transmit all primary, local, and State ballots without interfering with the prosecution of the war. Apparently, it is possible to transmit a simple Federal ballot for Federal offices; while the revised Green-Lucas bill, under which the Federal Government would take such a vote but leave it to State law and State authorities to accept or reject it, offers a clearly constitutional means of doing so. If this is the practical situation the conclusion is inescapable: It is to provide for the Federal ballot, leaving the States as free as they now are to distribute and receive State and local ballots within the normal limits of the military postal services. If it is practical to provide something more than this, Congress should be able quickly to ascertain the fact; if not, this is a reasonable minimum. The one thing which is not allowable is simple obstruction and evasion.

Obstruction and evasion are the watchwords of the opposition to the bill introduced by the Senator from Rhode Island and myself.

Mr. President, I wish to read, in addition, a very splendid editorial from the Atlanta Journal, published in Georgia:

IT IS UP TO CONGRESS

The right of citizens in our armed services to vote is undebatable and undisputed. But unless Congress provides means of distributing and returning the ballots, that right will become merely a shadow as far as this year's elections are concerned. The problem of getting the ballots to millions of soldiers, sailors, and marines scattered around the world is obviously beyond the power of the individual States to solve. Georgia, through the prompt action of its Governor and general assembly, has done its best to safeguard the suffrage rights of its own citizens in far-away camps and on overseas battle fronts. But this best cannot suffice without Federal assistance.

It is up to Congress to determine whether some 11,000,000 Americans in the armed forces shall be guaranteed or denied the ballot in this year's highly important elections. So far Congress has trifled with its responsibility. The Senate has passed a bill which evades the vital issue by tossing the whole question into the laps of 48 different States; and the measure approved last week end by the House Elections Committee, 7 to 5, is equally fatuous. Surely, the Congress is not so wanting in resourcefulness as to be unable to devise a Federal plan that will insure the rights of servicemen and women without infringing on the prerogatives of the States. The time grows short as millions who are risking their lives for our country are in danger of losing their votes.

Mr. President, At this very moment I have on my desk not less than 50 editorials from every section of this land, asking the Congress of the United States to give the men and women in the armed services wherever they may be serving, an opportunity to vote on a uniform Federal ballot.

I wish to take a moment of the time of the Senate to answer the argument of the Senator from Ohio with respect to the constitutionality of the bill. It is admitted by the Senator from Ohio that under section 1 of article IV of the Constitution the Congress has the right to provide the manner and means of holding a Federal election, insofar as the election of United States Senators and Members of the House is concerned. I take it there is no question about that.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TAFT. There is, of course, the question whether the suspension of the registration requirements of the State and the suspension of the poll tax fall within the power of Congress. Of course, considerable debate is taking place with respect to the matter of the poll tax. I simply call attention to the fact that that is not admitted. I am not urging that point because I think the other point is more important.

Mr. LUCAS. Mr. President, I wish seriously to discuss before the Senate the legal authorities as an answer to the challenged constitutionality of the measure, insofar as it applies to the electors for President of the United States:

Article II, section 1, of the Constitution, provides the following:

"Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number

of Senators and Representatives to which the State may be entitled in the Congress."

"The Congress may determine the time of choosing the electors, and the day on which they shall give their vote, which day shall be the same throughout the United States."

Unlike the provisions of article I relating to congressional elections, article II does not deal specifically with elections or the manner of holding them. Article II entrusts to the State legislatures the choice of the manner of appointing Presidential electors; that choice might lie among such alternatives as selection by the legislature, election by State-wide popular vote, election by districts, or even appointment by the Governor. But article II deals with fundamentals, not details. It represents one of the great compromises of the Constitution, and was adopted in the closing sessions after protracted debate, during which every variety of mode of selection of the President was actively considered. Indeed, the Convention had previously approved election of the President by Congress, and, subsequently, by electors appointed by the State legislatures (The Warren, Making of the Constitution, 1937 ed., p. 357). The problem which was resolved by article II is strikingly revealed by the description in *McPherson v. Blacker* (146 U. S. 1, 28):

"The Journal of the Convention discloses that propositions that the President should be elected by the 'citizens of the United States,' or by the 'people' or 'by electors to be chosen by the people of the several States,' instead of by the Congress, were voted down, as was the proposition that the President be 'chosen by electors appointed for that purpose by the legislatures of the States,' though at one time adopted. And a motion to postpone the consideration of the choice 'by the national legislature,' in order to take up a resolution providing for electors to be elected by the qualified voters in districts, was negatived in Committee of the Whole. Gerry proposed that the choice should be made by the State executives; Hamilton, that the election be by electors chosen by the people; James Wilson and Gouverneur Morris were strongly in favor of popular vote; Ellsworth and Luther Martin preferred the choice by electors elected by the legislatures; and Roger Sherman, appointment by Congress. The final result seems to have reconciled contrariety of views by leaving it to the State legislatures to appoint directly by joint ballot or concurrent separate action or through popular election by districts or by general ticket, or as otherwise might be directed."

Mr. ANDREWS. Mr. President, will the Senator yield?

Mr. LUCAS. Yes.

Mr. ANDREWS. The Constitution provides for no other way to vote for the President of the United States, except through electors. Four other methods, as the Senator has suggested, were undertaken to be placed in the Constitution, but it was finally decided to adopt the method of choice through electors.

Mr. LUCAS. Yes. I have read the different methods debated by the framers of the Constitution in the Convention, and it was finally decided to adopt the method which now appears in the Constitution. I was merely giving the Senate some of the history of this particular provision which is extremely interesting.

Mr. ANDREWS. Yes. I wish to ask the Senator a question.

In paragraph 2 of section 1 of article II of the Constitution we find this language:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

Under the form of ballot provided in the bill before the Senate, servicemen may vote by writing in the name of the President.

Mr. LUCAS. That is correct.

Mr. ANDREWS. The vote may also be had by writing in the name of the party, I believe. The ballots furnished by States would contain the name of each candidate for Presidential electors. On the Florida State ballot eight Presidential electors will be voted for, as there is one elector for each of the two Senators and one for each of the six Representatives. Thus the Democrats will vote for eight and probably the Socialists will vote for eight, and the Republicans will vote for eight electors by name.

I am wondering if confusion will not result from the Senator's proposed ballot inasmuch as the servicemen could not vote directly for electors but would cast their ballot by merely writing in the name of the President on the ballot or by writing in the name of the party. What I say is intended as a friendly suggestion. The ballot which will be sent out by the various States for the November election will not be so very long. A primary ballot, as the Senator knows, is a rather large sheet and may be too bulky to send by air mail in the short time required, but the ballot for the general election should not be too bulky to send out.

Mr. LUCAS. The bill in reality does not affect the general election in Florida, because the primary really determines who shall be elected to office. The Senator's State is so overwhelmingly Democratic that whoever wins in the primary really has won in the final election. It is seldom that a Republican runs in the Senator's State, as I understand.

Mr. ANDREWS. Republicans do occasionally run in our State. I simply do not wish to have election contests ensue. It is true that the second primary held in my State is practically a final vote. We are also anxious to make a good showing in all general elections. But, speaking particularly of the November election, I cannot see why it would be impractical to transmit the ballot already prepared by the States through the same channels as provided for the Federal ballot recommended in the pending bill. Our soldiers could then vote for all officers by name, as has always been their custom.

Mr. LUCAS. I wish it could be done. We went over that matter Monday in the Senate; and if the Senator will take the time to read the testimony of Colonel Cutler in the hearings, he will find how difficult it will be for the 48 States, with 48 different methods of voting, to transport all their ballots throughout the world in the coming election without absolutely breaking down the war effort. I am sure the Senator does not want to do anything which is incompatible with military operations.

Mr. ANDREWS. Not at all. I am very much in sympathy with what the Senator is trying to do.

Mr. LUCAS. I know the Senator is, and I appreciate it.

Mr. ANDREWS. For several years I was assistant attorney general in my State, and I had to formulate the ballot for the elections, and I therefore had considerable experience.

Mr. LUCAS. The Senator was a good assistant attorney general, and a good judge in his State.

Mr. ANDREWS. At least two embarrassing contests arose in Florida. A painting hangs to the left of the entrance door to the East Senate gallery which reminds us of Florida's trouble in 1876. It is entitled "The Florida Case." Florida lost her electoral vote. I am anxious that there shall not be a contest over the next important election, and also hope that the election may not be thrown into the House of Representatives. I wish to make a suggestion in respect to the matter. The ballots for the general elections will be prepared by the States, and if the bill now under consideration is passed, there will be another or additional Federal ballot. So the serviceman will perhaps receive two ballots for Federal offices. The two ballots will be sent to him, one by the secretary of state of his home State, through the same facilities, because they must if possible go to the men in the armed forces. I wonder if confusion would not result through two ballots being sent to the servicemen.

Mr. LUCAS. We have provided in the pending bill that in the event the serviceman should inadvertently vote both ballots, the uniform Federal ballot which we are now seeking to provide for, would become null and void, and that the State ballot should prevail. The bill makes such provision, and there can be no question about it.

Mr. ANDREWS. Suppose the serviceman should vote both ballots?

Mr. LUCAS. I just referred to that. In the event the serviceman should vote both ballots inadvertently, no penalty would be attached.

The only thing that could happen would be that if both ballots were returned to the precinct in which the Senator resides, let us say, the judges in that election would say that the Federal ballot was void, and would not count it, but would count the State ballot. That is provided for in the bill.

Mr. ANDREWS. Mr. President, let me make one further suggestion. Of course, the primaries are mentioned in the bill. My State and other States will want help along that line. It looks to me as if it would be easier for 48 States, with officers who are accustomed to the system, to be working on one subject, and to transmit the ballots directly from the 48 different States, and place them in the hands of the Secretary of War and the Secretary of the Navy, to be transmitted directly to our boys in foreign service. It seems to me that the 48 States could do that in a better way than could the Secretary of War and the Secretary of the Navy, if they tried to do it

themselves, and avoid delays likely to occur here in Washington.

Mr. LUCAS. Mr. President, I do not want to go over the entire ground with the Senator; but let me say that if the Army and the Navy say it cannot be done, upon whom are we to rely?

Mr. ANDREWS. Of course, that is also true. It is just as important that the vote that is cast can legally be counted.

Mr. LUCAS. I do not know of anyone else upon whom we could rely in that connection. I want every serviceman who is a resident of my county to vote for sheriff of the county or for county clerk, if it is possible to have that done, and I want each serviceman of every other county of my State, and of all counties of all the States, to vote for his county officers. But in Illinois there are 102 counties, and it would be necessary to have 102 separate ballots, and to transmit 1 of them to every Illinois soldier, wherever he might be, anywhere in the world. It is impossible to do that. I wish it could be done. However, that is the reason for the pending legislation.

Mr. ANDREWS. I realize that. Nevertheless, I think that is where a great deal of the trouble will arise. If it is possible to transmit to the members of the armed forces everywhere in the world the ballots and all the directions and pamphlets mentioned here, I believe it will be possible to transmit the State ballots to them.

Mr. LUCAS. The only things that will be sent will be the name and the address, together with certain instructions which possibly will be cabled or radioed.

Mr. ANDREWS. And certain literature.

Mr. LUCAS. No; in the Taft amendment, it is specifically provided that no literature may be sent.

Mr. ANDREWS. I hope the plan will work.

Mr. LUCAS. I hope so, too. I am certain it will—at least no better plan has been offered.

Mr. ANDREWS. I have my doubts about it; but I am going to assist the Senator and his committee in every way I can.

Mr. BUSHFIELD. Mr. President, will the Senator yield?

Mr. LUCAS. I yield for a question.

Mr. BUSHFIELD. I was not able to hear the distinguished Senator's full explanation of the bill, as he made it on Monday. I should like to call his attention—

Mr. LUCAS. Mr. President, I wonder if the Senator will wait until I conclude stating my thoughts regarding the constitutionality of the question. Then I shall be glad to yield to him.

Mr. BUSHFIELD. Very well.

Mr. LUCAS. Mr. President, I wish to say a word with respect to write-in ballots. There has been some question as to whether such can be done. In my State numerous officials, even including judges, have been elected by means of write-in ballots. I recall one election in which 16,000 ballots were written in, the write-in candidate being successful.

As was recognized in the case of *Newberry v. United States* (256 U. S., 232, 255)—

Congress clearly exercised its power to regulate the matter of holding an election when it directed that voting must be by written or printed ballot or voting machines.

The foregoing quotation is from page 154 of the *Newberry* case decision.

Let me return to the Blacker case, from which I just read an excerpt dealing with what the framers of the Constitution had to contend with when they finally wrote into the Constitution the present provision dealing with how the electors should be chosen.

My statement is that in the light of the background of the Blacker case, it cannot be said that the framers of the Constitution were addressing themselves to the functioning of whatever system the States might adopt for Presidential electors, as distinguished from the basic determination of what the nature of the system should be. So to conclude would be to disregard the admonition of the Supreme Court in the *Classic* case (314 U. S., 299, 316) to read the words of the Constitution—

not as we read legislative codes which are subject to continuous revision with the changing course of events, but as the revelation of the great purposes which were intended to be achieved by the Constitution as a continuing instrument of government.

Assuming the State decision in favor of popular election of electors, which now uniformly prevails, the language of the Constitution would be read with "stultifying narrowness," if taken to preclude congressional action under independent constitutional powers, to implement and make effective the system of popular choice.

The foregoing is taken from the *Classic* case.

Nor was the explicit grant of power to Congress to determine the "time of choosing electors" intended to exclude Federal authority in all other respects. This clause was contained in the draft reported by the Committee on Postponed Matters, which was in substance approved by the Convention. The clause provoked no discussion, although an amendment was adopted providing that the election should be on the same day throughout the United States. The purpose of the clause was to prevent intrigue in connection with Presidential elections. By this means, James Wilson explained to the Pennsylvania convention, "We avoid corruption"—avoiding it by holding the election all over the United States on the same day.

Thus, the two relevant clauses in article II—giving to the States the power to choose the manner of appointing electors, and to Congress the power of fixing the time—dealt, respectively, with the basic methods of choice of electors and with an obvious danger to the integrity of the electoral machinery. In the debates the clauses in article II were not made the subject of comparison or contrast with the provisions in article I dealing with congressional elections.

Whatever may be thought of these historical considerations, the Supreme

Court in the case of *Burroughs and Cannon v. United States* (290 U. S. 534), determined that the power of Congress over the functioning of Presidential elections is not limited to the designation of the time therefor. There the Court sustained the application of the Corrupt Practices Act to Presidential elections. Thus, the power to fix the time of the elections, which was conferred in order to prevent corruption, does not exhaust the measures open to Congress even for that purpose. In that case the Court took broad ground, maintaining that the proper functioning of the electoral machinery in Presidential elections is as legitimate a concern of Congress as the functioning of congressional elections.

Those are the words of the Supreme Court of the United States. This is what the Court further said:

The President is vested with the Executive power of the Nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated.

That quotation is from page 545. I read further:

Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption.

If a Presidential election may be protected from destruction, which is what the Court held in the *Burroughs* case, in my humble opinion, it may also be protected from the distortion which would be caused by the enforced absence of a substantial body of the electorate.

Here is the point in connection with the last statement, Mr. President: We have political distortion, which is common knowledge to everyone, as we realize that some 11,000,000 men and women are in the armed forces of their country—11,000,000 men and women who literally have been lifted from their homes and scattered to the four corners of the earth, without their sanction. The Army and the Navy discipline all those persons. The Army and the Navy feed them all. The Army and the Navy do not ask Alabama or Illinois or North Carolina whether they are willing to have those men and women taken from the States. They take them because it is war. Here is a political distortion which is apparent on its face, wherein some 8,000,000 or 10,000,000 persons, constituting approximately one-fifth or one-sixth of the entire electorate, are denied the right of full franchise unless we provide some method for them to vote, through a uniform Federal ballot.

Mr. BRIDGES rose.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LUCAS. I do not say that some of them will not vote, but I say that under most of the State laws as they exist at the present time—and the Senator from New Hampshire knows it as well as I do—very few men from the States will have an opportunity to vote under present restrictions and conditions, which were placed upon the statute

books for the problems of peace, and not the problems of war.

Mr. BRIDGES. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. WALLGREN in the chair). Does the Senator from Illinois yield to the Senator from New Hampshire?

Mr. LUCAS. I yield.

Mr. BRIDGES. Would not the Senator like to have as effective and honest a ballot as possible for the soldiers to cast their vote?

Mr. LUCAS. I certainly would. I have never had any other thought.

Mr. BRIDGES. I recognize that. I am merely asking the Senator a question. On the so-called bobtailed ballot which the Senator is discussing, and which is one of the problems here in controversy, why would it not be possible to have at least the names of the candidates for President? Can the Senator give me one reason why they should not be printed on the ballot?

Mr. LUCAS. If we are to have a Federal ballot, it must be a uniform ballot.

Mr. BRIDGES. Would not the same candidates for President be candidates all over the United States?

Mr. LUCAS. The Senator asked me a question. If he is going to put words in my mouth, I cannot do anything about it.

Mr. BRIDGES. I beg the Senator's pardon.

Mr. LUCAS. I am merely trying to answer the Senator's question.

If we are to have a uniform Federal ballot, let us have a uniform Federal ballot. If we are to put the names of candidates for President on the ballot, candidates for the Senate will want their names on the ballot, and candidates for the House in the various congressional districts will want their names on the ballots. Candidates for Representative at Large will also want their names on the ballot. The moment we do such a thing, we get back into the same difficulties as are involved in connection with State ballots. On the ballot for the election of Senators, there would be the names of one-third of the membership of the Senate. There would be the names of candidates from every congressional district in the United States, as well as the names of candidates for Representative at Large. That would not give us a uniform ballot.

I do not know who is to be the candidate for President. I do not know whether I am to be a candidate for the Senate or not. It would be to my advantage, if I were a candidate, to have my name on the ballot.

Mr. BRIDGES. It certainly would.

Mr. LUCAS. I think it would be to my advantage, but I am not asking for that advantage. I want to give the soldiers something in the form of a uniform ballot, something we know we can have delivered, executed, and returned to the precinct where the soldier resides, and properly counted. If the Senator can figure out any better way, I should be glad to hear from him. As I have said from the beginning, that is the way we might like to do it, but no one has yet

shown me a better method than the one proposed.

The clumsy method which the Senator from Ohio [Mr. TAFT] has suggested today puts us back where we were before, in connection with the States' rights situation. I maintain that it cannot be done, and that we cannot fool anyone with that kind of a move. No matter what happens to the proposed legislation, the soldiers in this country and abroad are far ahead of the Congress on the question which we are now debating. Senators may talk about the Constitution if they wish. They may wrap themselves in the folds of that old document on the floor of the Senate, and cry out, "We are violating the Constitution." My answer to that is, "Tell that to the Marine at Tarawa. Tell it to the soldier who lost an arm over in Italy. Tell it to the sailor who is convalescing in the South Pacific, who lost a leg at Guadalcanal." They do not understand why the Congress of the United States cannot find some way, under the uniform method which was pointed out today in the *Herald Tribune*, which I know the Senator reads daily, and to which he subscribes most of the time. I think he will subscribe to that editorial. It states exactly what ought to be done. It advises us to quit evading and stalling, and enact some kind of legislation as soon as possible. That is the sum and substance of it.

Mr. President, one further word on the Constitution, and then I shall be through. Chief Justice Hughes, in Two Hundred and Ninetieth United States Reports, at page 426, discussed the war powers. The Senator from Ohio blandly says he does not know of any war powers which Congress has. Congress declared war. Congress enacted the Selective Service Act. Congress can tell the farmer how much he is to get for his grain. Congress can tell almost anyone in this emergency just what he may and may not do. We have done it consistently under the war powers. It could not be done in peace. Chief Justice Hughes, in this most comprehensive opinion, said of the war powers:

It is a power to wage war successfully (290 U. S., at 426).

Whatever is necessary to wage war successfully will be done upon the home front as well as the military front.

But the constitutional sanction involved here is only an application to the war power of an established principle. It is a principle which enables Congress to deal with dislocations caused or threatened by an exercise of any granted power.

There is a fine comparison with what was done not long ago by the Congress of the United States in the devaluation of the gold content of the dollar.

The Court said:

Thus, when the Congress devalued the dollar under its monetary powers, it was at liberty to deal with the resulting dislocation of the domestic economy which would be caused by the enforcement of gold clauses in private, State, and municipal obligations. *Norman v. B. & O. Railroad Co.* (294 U. S. 240, 315). In the present situation there is a dislocation in the most literal sense, caused by

compulsory military service and the pressing need for members of the merchant marine and other civilians overseas.

That is what I spoke about a moment ago.

Congress may deal with this dislocation in the sphere of the political structure as it dealt with the threatened dislocation of the economic structure consequent upon devaluation.

Mr. BRIDGES. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. BRIDGES. Does the Senator believe that the President's message today on this subject is purely a patriotic message in the interest of soldiers' voting, or does he take it as a declaration of candidacy for a fourth term, and a very clever way of presenting his own candidacy?

Mr. LUCAS. Of course, the Senator has his own opinion on that. I know how partisan my good friend from New Hampshire is. I do not berate him for being partisan. That is perfectly all right. But if the President of the United States should say to someone, "Next Saturday is going to be Saturday" certain individuals would say "He is a candidate for the fourth term because he made that statement." Not long ago the President of the United States sent to the Congress the most courageous message that was ever sent here in an election year.

Mr. BRIDGES. What message was that?

Mr. LUCAS. I am talking about the message in which he urged Congress to raise \$10,000,000,000 in taxes. He said there would be no further increases in prices, no further increases in wages and profits, and urged the enactment of a national service act, which was in the teeth of the labor unions of this country.

Mr. BRIDGES. Why does not the President live up to that message or go down the line for it?

Mr. LUCAS. He must have Congress with him to raise taxes and enact a national service act. The Senator is not going to vote for \$10,000,000,000 in taxes.

Mr. BRIDGES. I certainly would if they were fair taxes. When a tax such as the sales tax is proposed, combined with other taxes, where is the President of the United States? He is running in the opposite direction.

Mr. LUCAS. I did not raise this question. The Senator raised it. I am merely trying to answer him.

After the President sent to Congress this courageous message, the most courageous message I have ever seen since I have seen a Member of Congress, some Republicans said, "This is his platform for the fourth term." If he is a candidate for the fourth term, and if that is his platform for the fourth term, it is a most unusual one. I am certain the Senator from New Hampshire would not use it as his platform for a third term.

Mr. BRIDGES. The Senator is not so naive as to believe that the President is going to get behind the program advocated in that message.

Mr. LUCAS. If the Senator wishes to charge the President with humbuggery, he may do so.

Mr. BRIDGES. I am not charging him with humbuggery.

Mr. LUCAS. That is the implication. That is all I can make out of it.

Mr. BRIDGES. I do not have any reason to believe that the President, based upon his past record, is going through with the program proposed in his message.

Mr. LUCAS. Of course he is not going through with it, because Congress is not going to implement the program. That is as I see it. I do not think that a national service act can be passed, and I know we cannot raise \$10,000,000,000 in taxes.

I believe we will limit profits, but I am not so sure the Senator wants to do that, in connection with renegotiation. I think he would like to have some of the contractors continue to make profits. I do not know about that. I do not want to go into that subject, but the Senator has raised the question. I do not want to talk about the fourth term. I want to talk about whether or not we will give the soldiers an opportunity to vote, and that is all I am interested in at the moment.

Mr. BRIDGES. If the Senator wishes to give them an opportunity to vote in the best way possible, why not go as far as possible in providing a regular ballot? Why not put the name of the candidate for President on the ballot?

Mr. LUCAS. The Senator cannot fool me as to his position in this matter. I have seen him on the floor of the Senate for the last 4 or 5 or 6 weeks with respect to this bill, and I know what he is trying to do.

Mr. BRIDGES. What am I trying to do?

Mr. LUCAS. The Senator is trying to kill the uniform Federal ballot. The Senator does not want the soldiers to vote. Am I correct about that?

Mr. BRIDGES. Oh, no; I want them to vote, but I want them to vote fairly, and I want the election to be conducted in a sound manner.

Mr. LUCAS. Will not the Senator trust the officers of the Army?

Mr. BRIDGES. Allow me to give the Senator an example. He has mentioned soldiers who are in far-away lands. I have a son who has been fighting in the Pacific for the past year. He knows what the fighting was at Tarawa. Let me tell the Senator this: The only President whom that boy can remember—and he has been in overseas service for nearly a year, and in active service nearly 2 years—is the present President of the United States, Franklin D. Roosevelt. If he is given a blank ballot to vote and the present incumbent is the only President he has heard of in the last 11 years, and the name of the other candidate is not available to him, how can he intelligently cast his vote?

Mr. LUCAS. He still could vote the Republican ticket, and I do not think he would vote any other ticket. All he would have to do would be to write in the word "Republican."

Mr. BRIDGES. Oh, no; many millions of boys will cast their vote on the basis of having the Roosevelt name in their minds.

Mr. LUCAS. I think they would be voting correctly if they voted for their Commander in Chief, Mr. Roosevelt.

Mr. BRIDGES. I know, and that is what the Senator would attempt to have them do.

Mr. LUCAS. No; I do not care how they vote, and I am sincere when I say that. If Mr. Spangler's polls showed 70 percent Republican and 30 percent Democratic, the Senator from Illinois would still be on his feet fighting for a basic representative principle of government which goes to the very grass roots of democracy. That is what I am fighting for.

Mr. BRIDGES. I want the soldiers to vote, and I want the best and fairest ballot which it is possible to obtain.

Mr. LUCAS. So do I. If the Senator will get one that is better than the present one, I will be in favor of it.

Mr. BRIDGES. Very well, but let us have as many names as it is possible to put upon the ballots.

Mr. LUCAS. If the Senator believes that he will hurt the candidacy of Mr. Roosevelt if he should be a candidate by putting his name on the ballot as a candidate, he is barking up the wrong tree.

Mr. BRIDGES. I certainly wish to have the ballot balanced by also having the names of Republican nominees for President and Vice President on the ballot.

Mr. LUCAS. I would not seriously object if it can be done and the Congress wishes to have the names put on. I would not object to that. I only say that when that is done we start discriminating against the other men who are going to run for Congress and for the United States Senate.

Mr. BRIDGES. The Republican National Convention is to be held in June. Instead of stalling along so far as the Democratic National Convention is concerned, why not hold it in June and let us get the names of the Democratic nominees placed before the voters overseas?

Mr. LUCAS. I am merely a Senator. I have nothing to do with that.

Mr. BRIDGES. The Senator quoted from the speech of the President. The Democratic Party has just elected a new chairman, who is a fine fellow personally. But a word from the President made him chairman and it can, if the President wishes to do so, bring about holding the Democratic National Convention in June rather than in July. The decision was left to the Democratic chairman. If the Senator wishes to give soldiers the right to vote and get the names of the candidates on the ballot, let the Democratic National Committee call the convention in time. Why put it off?

Mr. LUCAS. I am obtaining a great deal of fine information from my good friend. He gives me more credit than I deserve. It would seem that the Senator has been in contact with some of the Democrats.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. BARKLEY. Mr. President, if the theory of the Senator from New Hampshire is correct that the earlier the nominations are made the more likely the

soldiers are to know who the candidates are, he ought not to complain if the Republican Party nominates its candidate for President in June if we do not nominate ours until July or August.

Mr. BRIDGES. I want the Democratic candidate to be an official nominee. We all know who he is going to be.

Mr. BARKLEY. He will be official when we vote for him.

Mr. BRIDGES. I know that.

Mr. BARKLEY. The Senator is contributing his own information. He is not contributing anything to the soldier. The Senator says he knows who the candidate will be. I have no doubt that the soldier will find out in due time also.

Mr. BRIDGES. Well, the Senator knows.

Mr. BARKLEY. Very well; what if I do?

Mr. BRIDGES. The Senator has been told, has he not?

Mr. BARKLEY. I have not been told, but I may tell the Senator. [Laughter.]

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1543) to provide for mustering-out payments to members of the armed forces, and for other purposes.

METHOD OF VOTING BY MEMBERS OF ARMED FORCES

The Senate resumed the consideration of the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting in time of war by members of the land and naval forces absent from the place of their residence, and for other purposes.

Mr. OVERTON. Mr. President, I wish to speak on the amendment which I have offered and which is now pending before the Senate. In his message which was read this morning the President declared—

The men and women who are in the armed forces left their homes and jobs and schools to meet and defeat the enemies who would destroy all our democratic institutions, including our right to vote. Our men cannot understand why the fact they are fighting should disqualify them from voting.

That same thought has been expressed and reiterated time and again during the course of this debate and was urged during last December when we had before us for consideration the other bill for which the Eastland bill was substituted. We frequently read the same contentions in the editorial columns of the press and in letters addressed to us by many of our constituents. There is quite an appeal in that suggestion.

Speaking for myself, I am very much in sympathy with it. We should undertake to do all that we can legally, constitutionally, to permit the men and women in our armed forces to cast their ballots. The pending bill undertakes to do that in title I. It creates a United States War Ballot Commission. That

Commission would be charged with the duty of collecting ballots, forwarding them to the soldiers, and giving the soldiers the opportunity to vote those ballots and have them returned to proper election authorities. When we have done that, when we have brought the ballot to our armed forces and provided for their return, we have done about all that we can constitutionally do. We have met the situation under which the service men and women have left the precincts in which they cast their ballots, and have become scattered throughout the United States and in foreign lands. We have undertaken so far as we can go to overcome an unavoidable situation by affording opportunity to our soldiers and sailors to cast their ballots. Now when we do that, I think we are discharging our full duty, and no objection can be raised to it. But in the pending bill and the bill which the Senate voted upon last December, which was presented by the Committee on Privileges and Elections and which was defeated, because the Eastland substitute bill was adopted by a majority vote of the Senate—in the pending bill and in the legislation which we adopted in 1942, we have undertaken to do something that goes over and beyond our duty to convey the ballots to the soldiers, collect the ballots after they have been voted, and return them to the proper election officials.

An attempt has been made to muddy the waters. Controversial issues and controversial provisions have been inserted in the previous legislation, and now are being sought to be retained in the pending legislation; which, in my humble judgment, are wholly unnecessary.

It seems to me that those who are so anxious—and I am one of them—to see to it that our soldiers and sailors have the opportunity to vote should undertake to free such legislation from questions concerning which the minds of men may honestly differ and which may bring about the very defeat of the laudable purpose which the President of the United States and we have in mind.

Take, for instance, Mr. President, the poll-tax provision which was inserted in the act of 1942. Before I comment on that, let us see how that bill passed the Senate and when it passed the Senate. That bill came up for a vote in the Senate, according to my recollection—and I think I am absolutely correct—after a number of weeks of recess by agreement; that is to say the Senate did not actually and formally recess, but it was understood that no controversial measures would come up, no quorums would be called, and the Senators could go home or elsewhere and enjoy a much needed rest. That gentleman's agreement began on August 6, 1942, and continued to August 25, 1942. On August 25, the very first day when the Senate reconvened to transact business, the soldiers' vote bill was presented to the Senate. Many Senators had not returned at that time. I was not here. I did not vote upon the passage of the bill, and 43 other Senators were not here and did not vote upon the bill. There were only 47 yeas for the bill, and there were 44 who did

not vote. So I do not think the action of the Senate on August 25, 1942, properly reflected the actual view and sentiment of the Senate in respect to legislation of this character.

The last expression of the Senate was in December of last year, when a bill very similar to the bill now proposed by the Committee on Privileges and Elections, and sponsored by the Senator from Illinois and the Senator from Rhode Island, was submitted to the Senate. On that bill there was real debate and real discussion, and the bill was thrown out the window, and in lieu of it there was adopted a substitute bill, which today represents the last expression of the view of the United States Senate.

Mr. MURDOCK. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. JOHNSON of Colorado in the chair). Does the Senator from Louisiana yield to the Senator from Utah?

Mr. OVERTON. I yield.

Mr. MURDOCK. I hesitate to interrupt the Senator, but I should like to inquire if he has the votes which were cast at that time conveniently at hand so that he can give us the figure of the number of Senators who voted for it?

Mr. OVERTON. For the substitute bill?

Mr. MURDOCK. Yes.

Mr. OVERTON. I am sorry, I have not those figures at hand.

Mr. MURDOCK. I was wondering if that bill passed by as large a vote as Public, No. 712, in the Seventy-seventh Congress, passed.

Mr. OVERTON. There were 47 votes cast for Public, No. 712. I inquire of the Senator from Mississippi how many votes were cast for his substitute last December?

Mr. EASTLAND. There were 42 for the substitute and 35 against it.

Mr. MURDOCK. Mr. President, will the Senator from Louisiana yield to me for a further question?

Mr. OVERTON. I yield.

Mr. MURDOCK. If the Senator takes the position that the 47 votes cast by the Senate for Public, No. 712, did not represent the majority view of the Senate at that time, then I ask how the Senator can conclude that 42 votes, which was the number by which the Eastland amendment carried, reflected at that time the majority vote of the Senate, because it represented 5 votes less than the vote cast for Public Law 712.

Mr. OVERTON. Because the bill in 1942 was taken up and passed on the same day with 44 Senators absent. The substitute bill of last December was passed by the Senate after a number of days of debate and a thorough discussion and a complete understanding of the legislation proposed by the Senator from Mississippi and others who joined in the introduction of the substitute, and it was discussed by them and by the proponents of the committee bill.

Mr. EASTLAND. Mr. President, will the Senator yield there?

Mr. OVERTON. I yield.

Mr. EASTLAND. As I remember the figures, there were only 18 Senators absent when the substitute was adopted,

whereas there were 40-odd absent when Public Law 712 was adopted.

Mr. OVERTON. I thank the Senator for his contribution. I think certainly everyone will agree that the vote last December more accurately reflected the view of the Senate than did the vote in 1942 on the bill which was then passed.

Mr. PEPPER. Mr. President, will the able Senator suffer a comment?

Mr. OVERTON. I yield.

Mr. PEPPER. I am sure the Senator has verified the dates mentioned in his remarks, but I had the impression that considerable time was spent in hearings on Public Law 712 before the committee, because I know I went before the committee myself in respect to the anti-poll-tax amendment. I certainly had the impression that the anti-poll-tax amendment lay upon the desks of Senators for quite a time. I was the author of it, and I am sure it was printed. I thought it was on the desks of Senators at least more than 1 day. I may be in error in that, but I certainly thought it was.

Mr. OVERTON. We did not reconvene for the transaction of business until the very day when the bill of 1942 was passed, I am informed by the officials of the Senate who looked up the data for me a while ago.

Mr. President, there was injected into the bill the anti-poll-tax provision. What in the name of high heaven was the necessity of inserting an anti-poll-tax provision in the soldiers' vote bill?

Mr. PEPPER. Would the Senator like to have me try to answer?

Mr. OVERTON. I will let the Senator do so in his own time, but I should like to present my own argument.

Mr. PEPPER. I thought the Senator put his argument in the form of a question.

Mr. OVERTON. It was a rhetorical question I was propounding, and not one addressed to the able Senator from Florida. I repeat, rhetorically speaking, what in the wide world was the necessity of inserting a poll-tax provision in the soldiers' vote bill?

What are the poll-tax States. Look them over. There is not a single chance in the wide world of any one of those poll-tax States voting any other than the Democratic ticket.

Virginia is one State. Does anyone believe that in the coming election the State of Virginia, a rock-ribbed Democratic State, will vote any other than the Democratic ticket?

North Carolina is next in line. Does anyone believe that North Carolina will go Republican in the fall elections this year?

Mr. TAFT. The Senator knows it has gone Republican in past years.

Mr. OVERTON. Thank God, that day is past. [Laughter.] There is no chance of it doing so again.

Mr. STEWART. Mr. President, I wish to supplement the answer to the Senator from Ohio by saying that some States have gone wrong in times past.

Mr. OVERTON. South Carolina is next in line. Who believes South Carolina will vote any other than the Democratic ticket, regardless of who may be

named by the Democratic or Republican Party?

Georgia is next. What chance is there of Georgia going other than Democratic?

Then there are Alabama, Mississippi, and Texas. Texas did go Republican once, but it will not go Republican in the 1944 election.

Mr. VANDENBERG. Mr. President—

The PRESIDING OFFICER (Mr. WALLGREN in the chair). Does the Senator from Louisiana yield to the Senator from Michigan?

Mr. OVERTON. I yield.

Mr. VANDENBERG. I suppose the Senator is proceeding on the theory, however, that the southerner was correct who one day said that if the North did not quit voting Democratic, it would ruin the country. [Laughter.]

Mr. OVERTON. Mr. President, there is only one other poll-tax State, and I shall call on the senior Senator from Tennessee [Mr. McKELLAR] and the junior Senator from Tennessee [Mr. STEWART] to speak for that State, as to whether there is any chance of its going Republican in the fall of 1944. I have mentioned all the others except the State of Tennessee. I ask the senior Senator from Tennessee whether there is any chance of that State going Republican.

Mr. McKELLAR. In my judgment, it will go overwhelmingly Democratic.

Mr. OVERTON. What says the junior Senator from Tennessee?

Mr. STEWART. The senior Senator from Tennessee is eminently correct, of course. So far as I can recall, it has gone wrong only about twice.

Mr. OVERTON. Then why encumber such a legislative proposal with an anti-poll-tax provision? What is the sense of it? I think I know what the purpose is, and I shall undertake in a moment to tell what I think the purpose is.

Mr. BRIDGES. Mr. President, will the Senator from Louisiana yield?

Mr. OVERTON. I yield.

Mr. BRIDGES. The Senator has gotten some very interesting testimony from the Senators from Tennessee as to how that State would go. Why does he not call upon all the Senators for testimony as to how their States will go? He might obtain some very illuminating figures and predictions.

Mr. OVERTON. I am talking about the poll-tax States.

Mr. BRIDGES. Oh!

Mr. OVERTON. I am confining my argument to the utter futility of putting an anti-poll-tax provision in the bill.

Mr. EASTLAND. Will the Senator yield?

Mr. OVERTON. I yield.

Mr. EASTLAND. Is it not a fact that most of the States the Senator has mentioned have already waived the poll-tax prerequisite, so far as the members of the armed services are concerned?

Mr. OVERTON. I think the Senator is correct.

Mr. EASTLAND. And that the others are in process of doing so?

Mr. OVERTON. That is correct.

Mr. EASTLAND. I should like to ask the Senator a further question. Does he

not believe that when the franchise laws of the South are nullified, the reconstruction era is brought back to the South?

Mr. OVERTON. I agree with the Senator.

What about the poll-tax bugaboo? One does not have to pay a poll tax in person. A soldier over in Italy does not have to come back to Texas to pay his poll tax. He can send the money with which to pay it, his father can pay it for him, his mother can pay it for him, his brother can pay it for him, any member of his family, any friend, or any politician can pay it for him—and many of the politicians do so; hence there is no trouble about the soldier qualifying by paying the poll tax.

Mr. DAVIS. Mr. President, would the Senator have a soldier, after he had received the ballot, disqualified from sending the ballot in because he had not paid his poll tax?

Mr. OVERTON. In other words, would I want him to vote according to the Constitution, or would I want him to vote contrary to the provision of the Constitution? That is rephrasing the Senator's question. I want the soldier to cast a constitutional ballot. The Senator agrees with me, I suppose, and wants him to cast a constitutional ballot.

As the Senator from Mississippi has pointed out, many of the States already have enacted legislation absolving those engaged in the armed forces from any obligation to pay a poll tax as a prerequisite to voting. The Senator is more familiar with that subject than I am. I do not know how many such States there are, but there are some which have taken that action.

Why, then, inject this useless, wholly unnecessary provision about poll taxes, which can affect only solidly Democratic States? The purpose is the same, in my opinion, as that which underlay the old anti-poll-tax bill, which keeps bobbing up from time to time. It is an effort on the part of a majority of the Congress to assume the authority of prescribing the qualifications of electors for Senators and Representatives, as well as of President and Vice President, in the various States of the Union.

The original anti-poll-tax bill was merely intended as an entering wedge to subvert the constitutional authority vested in the States under section 2 of article I, to prescribe the qualifications of electors for Members of the House of Representatives, and other provisions of the Constitution with reference to Senators.

It is an undertaking to put the nose of the camel under the tent. This provision was inserted in the soldiers' vote bill because the soldiers' vote bill has, and very properly so, a patriotic appeal to the Members of Congress, and the thought back of it must have been that if we can get this provision in a soldiers' vote bill, then we will have established the precedent when the war is over and the peace comes, by virtue of which we can have an anti-poll-tax provision applying to all elections.

Mr. PEPPER. Mr. President, will the Senator yield to me for a question?

Mr. OVERTON. I yield.

Mr. PEPPER. Did not Public Law No. 712, to which the able Senator is now addressing himself, also dispense with the requirement of registration by the soldiers in the States?

Mr. OVERTON. I am going to reach that point presently.

Mr. PEPPER. It did, did it not?

Mr. OVERTON. Yes. What do Democratic States such as Florida, which is going Democratic in 1944, expect from an anti-poll-tax provision?

Mr. PEPPER. Is it not entirely proper, in the opinion of the able Senator from Louisiana, for the Federal Government, which takes a man away from his home and sends him far away, in his own country or beyond the seas, to exercise its power to excuse him from the nonperformance of an act which is usually performed by him personally, such as registration and the payment of a poll tax?

Mr. OVERTON. The Senator is speaking about a poll tax?

Mr. PEPPER. The law does both.

Mr. OVERTON. We will reach the matter of registration in a moment. We are now speaking about a poll tax. First, the Senator assumes something that does not exist. He says, "Does not the Congress have the right to exercise its power?" The Congress has no power to prescribe the qualifications of electors. That is the power which is delegated under the Constitution to the States. I know the Senator differs with me in respect to that question.

Mr. PEPPER. Does the Senator mean to imply by that statement that he regards the provisions of Public Law No. 712 as unconstitutional?

Mr. OVERTON. I do.

Mr. PEPPER. Then those provisions have no effect in the law, and there is no use to do anything else about the matter.

Mr. OVERTON. Yes; and I wish to remove them from the legislation.

Mr. PEPPER. The Senator's amendment, as I read it, addresses itself to page 39 of the bill.

Mr. OVERTON. Yes; the Senator is correct.

Mr. PEPPER. The elimination of registration and the elimination of the payment of poll tax were accomplished by Public Law No. 712, which is already on the statute books. This measure does not have anything to do with that. It seems to me the Senator would have to repeal Public Law No. 712 to accomplish the objectives he has in mind. Yet if he says the provisions are unconstitutional there is no need to try to strike them from the statute book.

Mr. OVERTON. The Senator means, to repeal sections 1 and 2?

Mr. PEPPER. The provisions that deal with dispensing with registration and the payment of the poll tax.

Mr. OVERTON. I have an amendment to repeal sections 1 and 2, which I have not offered as yet.

Mr. PEPPER. Is the Senator trying to achieve that result with this amendment, or what does the Senator have in mind with respect to it?

Mr. OVERTON. I will read that amendment in a little while, and discuss

it. I wish to discuss what led up to this legislation. Take the question of registration. In a great majority of the States it is not necessary to register in person. A soldier who is abroad can register. A soldier can register from anywhere in the United States. Anyone in the armed forces can take advantage of State laws to register. I think there are only 11 States which require registration in person. In respect to those 11 States, first, many of the soldiers had an opportunity to register in person, either before they were inducted into the service or after they had been inducted into the service and returned home on leave of absence or furlough. That removes a great many from consideration. Then the different States are enacting laws, and probably most of them, if not all of them, will enact laws before the time comes for voting, which will relieve the men and women in the armed forces from the necessity of registering in person, that is in those States which require such registration. They will go further and probably relieve them of the necessity of registering at all. Registration is based on educational qualifications. And certainly it would not be considered by anyone who understands the Constitution that an educational test cannot properly be regarded as a qualification to vote under the Constitution.

Mr. PEPPER. Mr. President, will the Senator again yield?

Mr. OVERTON. I yield.

Mr. PEPPER. Am I correct in understanding the Senator to say that registration is based upon educational qualifications?

Mr. OVERTON. Very largely.

Mr. PEPPER. I was not aware of that. I am sure it is not true in my State. One simply has to be of a certain age, and not to have been convicted as a criminal, or, if so, to have been restored to full civil rights, and so forth. I do not know about the educational qualification.

Mr. OVERTON. I do not know what the law of Florida is. In Louisiana and in many other States I understand that in order to register one may be subjected to an educational qualification and an educational test.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. EASTLAND. In the State of Mississippi educational qualification is part of a man's qualifications to vote, because he must register before an official of the State who is designated for that purpose, and must be able to read or interpret a section of the Constitution which is read to him at the time he registers.

Mr. OVERTON. We have a similar provision in the law of the State of Louisiana, and I have no doubt there are similar provisions in the laws of many of the other States.

Mr. President, let us be perfectly frank about the matter. In Mississippi and Louisiana, down in the Solid South, we have got to retain our constitutional rights to prescribe qualifications of electors, and for what reason? Because we are bound to maintain white supremacy in those States.

Mr. EASTLAND. Does the Senator think that this bill would tend to tear down white supremacy?

Mr. OVERTON. It would. If the Federal Government should propose to invade the rights of the States to prescribe qualifications of the voters, if the Federal Government were to say to the States of Mississippi, South Carolina, Florida, Texas, and others, "You cannot prescribe the qualifications of the voters; we will prescribe their qualifications; we deny you the right to require registration; we deny you the right of prescribing educational tests; we deny the poll-tax provision; we deny this, and we deny that, and we assume the authority to abolish all those safeguards which you have undertaken to throw around white control of your local governments." We cannot, we shall not, Mr. President, submit to such action.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. WHEELER. As I understand, the provisions of the bill permit, as I think they should permit, any soldier to vote, whether he is colored or white, if he is in the armed services. The provisions of the bill permit that to be done, as I understand?

Mr. OVERTON. Yes; they permit the soldiers to vote.

Mr. WHEELER. The provisions of the bill permit them to vote?

Mr. OVERTON. Whether they have paid a poll tax or whether they have registered.

Mr. WHEELER. Whether they have paid a poll tax or not?

Mr. OVERTON. In other words, it does not repeal existing law on that subject.

Mr. WHEELER. The bill does permit them to vote regardless of whether they have paid poll tax?

Mr. OVERTON. Yes.

Mr. WHEELER. In my State, for instance, the soldiers are permitted to vote regardless of whether they are registered.

Mr. OVERTON. Yes.

Mr. WHEELER. Is it the Senator's contention that it should not be so?

Mr. OVERTON. No. It is my contention that it should very properly be so. But the Senator's State should enact the law, and Louisiana should enact the law dealing with the matter. Louisiana requires no poll-tax payment as a prerequisite of voting.

Mr. WHEELER. I think many of the servicemen who want to vote are as much interested in local elections as in national elections. Many of them are more interested in the election of sheriff than in election of Representatives or Senators or President.

I wish it were possible to provide that the servicemen could vote for candidates for all offices. I realize that it is very difficult to make such provision. I wished to ascertain the Senator's idea with respect to whether a provision should be placed in the measure to the effect that a soldier could not vote unless he paid the poll tax.

Mr. OVERTON. We should not say, "You cannot"; we should not say, "You can." That is my thought about it.

Mr. WHEELER. Of course, under the soldiers' voting law, as I read it, there is no question, in my judgment, that a man can vote regardless of whether he pays the poll tax.

Mr. OVERTON. We undertake to assume the authority to regulate the qualifications in two particulars of the voters in the several States. We say, "Whether your State law prescribes a poll tax or not, we say you can vote without a prepayment of poll tax; and whether your State law requires registration, or educational tests as a basis for registration, we say that without any registration you can vote."

I am perfectly willing—do not misunderstand me—that in this war everyone in the armed forces anywhere, who has been called away from his home by reason of the war effort, should be permitted to vote without registration, without prepayment of poll taxes. But I want my own State of Louisiana to say so. I want Montana to say so. I want Wyoming to say so. I want Kentucky to say so. I do not want the Congress of the United States to assume a constitutional authority which it does not possess, and which will rise up in the future as a precedent to throw down the barriers we and our fathers before us have built up through the years in order to preserve our racial integrity and our racial sovereignty.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. BARKLEY. Regardless of the size of the vote on Public Law 712, passed in 1942, and the relative size of the vote in the Senate last December, it is now the law, under Public Law 712, admitting its constitutionality—which I believe the Senator from Louisiana does not do—that members of the armed forces may vote for President, Vice President, and Members of the Congress without registering. That is the law.

Mr. OVERTON. That is correct—that is, it is the Federal law.

Mr. BARKLEY. Yes; it is the Federal law, assuming its constitutionality and legality.

Mr. OVERTON. Yes.

Mr. BARKLEY. Of course, the same applies to the poll tax, but we need not go into detail as to that matter, because the registration is more universal than is the poll tax, because it applies in only a few States.

But the effect of the Senator's amendment, and the intention he has in offering it, is to nullify effectively that part of the present law, so that if his amendment should be agreed to, a ballot cast by a soldier who is unregistered in any State, although otherwise qualified to cast a ballot, would be illegal.

Mr. OVERTON. Let us phrase it in another way. What I want to do is to give every soldier the right to vote as the Constitution of the United States prescribes, namely, under the qualifications which the States prescribe for electors for the most numerous branch of the legislature. That is all.

Mr. BARKLEY. I understand that. The effect is that if in any State there is no legislation waiving registration, then if the Senator's amendment were agreed to, the soldiers from that State, and in the service, no matter where, would not be permitted to vote by absentee ballot.

Mr. OVERTON. That is correct. Why do we not appeal to the States? Are we to be told that the Congress of the United States is more patriotic than are the people of the various States? Does the Senator from Kentucky think that the people of Kentucky are less patriotic than the Members of the Senate or the Members of the House of Representatives? If they are just as patriotic as we are, and if they are actuated by the same desires as actuate us, they can assemble their legislature and in a constitutional way provide for soldiers' votes. The cost of such sessions will be trivial in comparison—to use the phraseology which is frequently used upon the floor of the Senate—with the great sacrifices our soldiers are making.

Can it be said that the people of Louisiana, the people of Kentucky, the people of Texas, the people of Ohio, or the people of Wisconsin will not undertake to respond to that patriotic appeal, and to waive such obstructions to voting by soldiers?

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. BARKLEY. The Senator asked whether I thought the people of Kentucky were less patriotic than the Members of Congress or anyone else. Of course, I do not. But the situation in Kentucky—I mention this since the Senator has asked about it—is that during the last war the Legislature of Kentucky enacted an absentee voters' law for the benefit of the men and women in the armed services. That law was in operation for approximately 4 years. I myself cast a ballot by mail, as a citizen and voter of the State of Kentucky.

At the end of approximately 4 years of the operation of that law, a lawsuit was instituted to enjoin its enforcement or its observance or administration, on the ground that it was unconstitutional. Four out of seven members of the court of appeals, considering a motion to dissolve the injunction, held that it was unconstitutional because the constitution of Kentucky required the voter to mark his ballot at the polling place. The four words "at the polling place" were the words on the basis of which the Supreme Court of Kentucky declared that law unconstitutional. Since that time there has been no additional legislation on the subject.

Mr. OVERTON. Mr. President, let me inquire whether in the face of that decision the State of Kentucky has changed that provision.

Mr. BARKLEY. I admit with regret that the legislature never submitted an amendment to the constitution. The legislature is now in session and will submit an amendment to the constitution.

Mr. OVERTON. Certainly.

Mr. BARKLEY. But under that provision the people cannot vote on the amendment until 1945, because under our constitution amendments can be submitted only at a certain time, and only a certain number of amendments can be submitted, and they can be voted upon only in a general election, which is an election for members of the legislature of the State of Kentucky. So they cannot even vote on the amendment until 1945.

At this time the legislature is giving consideration to the question whether it can write a statute which would in effect abrogate the constitution by providing some other way for the polling place to be established, so that the soldier or sailor could vote at the polling place. Whether that can be done I, myself, am not sure. But if we must await a constitutional amendment, not only will our soldiers and sailors not be able to vote in 1944 but they will not be able to vote in 1945, because the people could not vote on the amendment to the constitution until November 1945, and it would be necessary to wait until the legislature met in 1946, until the legislature could pass a bill of that nature.

Mr. OVERTON. I understand the situation. I think there are only two States in the Union—the President says there are only two; I think they are New Mexico and Kentucky—which probably cannot act through their legislatures and have a constitutional convention and give it carte blanche to amend such provisions.

Mr. BARKLEY. In those States the same thing happens which frequently happens in States where the court declares an act of the legislature unconstitutional. Legislatures are not always prompt to enact legislation designed to cure constitutional defects.

Mr. OVERTON. That is very much to be regretted, but it is better that Kentucky and New Mexico should suffer than that the Constitution of the United States should bleed.

Mr. BARKLEY. I do not agree with the Senator's theory that the Constitution would suffer under the proposed legislation. I believe it to be constitutional. If I did not, I would not support it.

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. PEPPER. I was about to ask the Senator if there has not been an election since the enactment of Public Law 712.

Mr. OVERTON. Yes.

Mr. PEPPER. Has the Senator found that the operation of that law, dispensing with the requirement of registration and the payment of the poll tax, has operated to impair white supremacy in the South?

Mr. OVERTON. To what election does the Senator refer? We had a primary election in Louisiana. My son is in the Navy. He voted on January 18. He wrote and received a State ballot, marked it, and sent it back.

Mr. PEPPER. The able Senator from Mississippi intimated that Public Law 712, so far as it dispensed with the re-

quirement for registration and payment of the poll tax, was destroying or impairing white supremacy in the South. I inquire whether or not that has been the experience under the law so far.

Mr. OVERTON. It will not be destroyed in one fell swoop. The poison is slow in its operation, but none the less deadly. The Senator's forebears had to go through that fight. There was a time when it was necessary for a Democrat in the South to sleep with a shotgun at the head of his bed. The Senator does not recall it, but his forebears went through that experience. We do not want to go back to those days. We do not want to establish any congressional precedent which would enable the Federal Government to seize control of our elections.

Mr. President, I wish to address myself particularly to the amendment which I have offered.

On page 39 of the bill, in section 14 (a), it is provided as follows:

The Commission shall have no powers or functions with respect to the determination of the validity of ballots cast under the provisions of this title.

Of course, that is correct. Everyone will subscribe to that declaration.

Then the bill proceeds as follows:

Such determination shall be made by the duly constituted election officials of the appropriate districts, precincts, counties, or other voting units of the several States.

That refers to the determination of the validity of the ballots. It shall be made by the duly constituted election officials in the various States. When I read that provision I thought it was a very close approach to writing into the law the very thing which I am now advocating; that is, recognition of the authority of the States over elections and qualifications of voters. I was reinforced in that view by the statement made by the Senator from Illinois [Mr. Lucas] when on last Monday the bill was taken up and he was explaining it to his colleagues. I asked the Senator from Illinois to yield, and I said to him:

The provision in reference to the validity of ballots is not so very clear, as to whether the validity of the ballot is to be determined by State law or not. The provision is that:

"Votes cast under the provisions of this title shall be canvassed, counted, and certified in each State by its proper canvassing boards in the same manner, as nearly as may be practicable as the votes cast within its borders are canvassed, counted, and certified."

That relates to the canvassing, counting, and certification of votes, but it does not deal with the qualification of the voter. It contemplates the vote cast, the vote in the ballot box, whether the voter be qualified under State laws or not, and then it proceeds to state that after the votes are cast they shall be canvassed, counted, and certified according to the State law. What I wish to ask the Senator is whether it is the intention to provide that the qualifications of voters shall be determined by the laws of the State in which the vote is cast.

To which the Senator from Illinois replied:

Mr. LUCAS. Let me say to my able friend from Louisiana that the first part of section 14 provides:

"The commission shall have no powers or functions with respect to the determination of the validity of ballots cast under the provisions of this title; such determination shall be made by the duly constituted election officials of the appropriate districts, precincts, counties, or other voting units of the several States."

It seems to me that is very clear. That is the first part of section 14.

Mr. OVERTON. Determined according to what? It ought to read "such determination shall be made in accordance with State law."

What I had in mind, Mr. President, and what I now have in mind, is that we lodge the authority in local election officials to determine the validity of the ballot; but when we undertake to lodge that authority in them, we ought at least to give them some rule to go by. We ought to give them some law to go by. It was my suggestion, and it was in line with my interpretation of the Federal Constitution, that that determination should be made in accordance with State law. Therefore I suggested to the Senator from Illinois that the provision ought to read "such determination shall be made in accordance with State law."

The Senator from Illinois said:

Mr. LUCAS. I presume that the duly constituted election officials in the Senator's parish, or in my particular precinct, are acting under State laws.

What did the Senator from Illinois mean? Certainly the inference there is that when this authority is given under section 14 (a) to the local election officials to determine the validity of the ballot, they would be guided by State law. That was the interpretation which the Senator from Illinois placed upon it. I quote again:

Mr. LUCAS. I presume that the duly constituted election officials in the Senator's parish, or in my particular precinct, are acting under State laws.

That was in answer to my question, in effect, as to what law would control. I said that the provision ought to read "such determination shall be made in accordance with State law."

That was the answer which the Senator from Illinois gave me.

I read further from the CONGRESSIONAL RECORD for Monday, January 24, 1944:

Mr. OVERTON. Why presume that they will follow the State law? We have here a proposed Federal statute, which contemplates that the soldiers shall be permitted to vote. The ballot is all arranged for them. All they have to do is to mark it and send it in.

Mr. LUCAS. I have no objection to what the Senator is trying to do. I think this section absolutely covers it.

I offered my amendment. Apparently the Senator from Illinois agreed with me. Apparently he thought it was unnecessary, because the bill as it now reads vested the authority in the local election officials to pass on the validity of the ballots in accordance with State law. I wished to remove any possible obscurity from the statute, and therefore I offered that amendment on page 39, line 9, after the word "made" to insert "in accordance with State law" so as to read:

Such determination shall be made in accordance with State law by the duly consti-

tuted election officials of the appropriate districts, precincts, counties, or other voting units of the several States.

It is in line with the reasoning of the Senator from Illinois, and it is in line with the Constitution.

Mr. President, I wish to say this in conclusion: If the Constitution is not followed in this bill so that the constitutional authority vested in the States shall determine the qualifications of electors, I cannot support the bill. I am frank to say that if this amendment shall not be adopted I will support the substitute amendment of the Senator from Ohio or some other substitute.

I have a very earnest desire to insure that our soldiers shall be permitted to vote. I believe that many of them could vote now without any further legislation by the States. As I have said, my son voted in the last primary election. I am satisfied that a great many others from Louisiana who are in the armed forces also voted. I am willing to do everything which we constitutionally can do to have the ballots prepared, get them to the members of the armed forces, and give them an opportunity to vote and send the ballots back to the election officials.

Mr. MOORE. Mr. President, will the Senator yield?

Mr. OVERTON. I will yield in a moment.

However, Mr. President, I am not willing to lay down a precedent which is contrary to the Constitution of the United States—according to my interpretation of it—that in the future will arise to plague those of us who live below the Mason and Dixon's line.

I now yield to the Senator from Oklahoma.

Mr. MOORE. The effect of the amendment submitted by the Senator from Louisiana would be to repeal in toto all of Public Law 712, would it not?

Mr. OVERTON. It would not repeal all of Public Law 712. It would, in my opinion, repeal sections 1 and 2 of the law.

Mr. MOORE. On page 26 of the pending bill there appears the following language:

That Public Law No. 712, Seventy-seventh Congress, be amended by inserting after the enacting clause the words "Title I" and by striking out sections 3 to 15, inclusive, and inserting in lieu thereof the following—

Namely, the Green-Lucas bill.

Mr. OVERTON. Yes; the Senator is correct.

Mr. MOORE. This amendment, containing the words "inserting in lieu thereof," that is, title I, would include in the repeal all the sections from 3 to 15, inclusive. That is what it amounts to, as I understand.

Mr. OVERTON. The pending bill would repeal everything in Public Law 712 from section 3 to section 15, both inclusive, but would leave intact sections 1 and 2, which sections relate to poll tax and registration. If my amendment shall be adopted, in my opinion it will by clear implication repeal sections 1 and 2. It will render them nugatory and with no further effect.

Mr. MOORE. I thank the Senator.

Mr. OVERTON. If there is any objection to the particular phrasing of my amendment I have another one which I have presented to the Senate and asked to have printed, which would specifically insert the numeral 1 in lieu of numeral 3 and would operate as a repeal of sections 1 to 15, both inclusive.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. McCARRAN. I invite the Senator's attention to section 14 and ask that he consider it in the light of his very able discussion.

It has been stated that it is thought that section 14 on page 39 meets the objections which the Senator would reach by his amendment. It reads as follows:

SEC. 14. (a) The commission shall have no powers or functions with respect to the determination of the validity of ballots cast under the provisions of this title; such determination shall be made by the duly constituted election officials of the appropriate districts, precincts, counties, or other voting units of the several States. Votes cast under the provisions of this title shall be canvassed, counted, and certified in each State by its proper canvassing boards in the same manner, as nearly as may be practicable, as the votes cast within its borders are canvassed, counted, and certified.

I assume that the Senator does not believe that the language of the section which I have read meets objection which his amendment would reach.

Mr. OVERTON. The Senator is correct.

MUSTERING-OUT PAY FOR MEMBERS OF THE ARMED FORCES—CONFERENCE REPORT

Mr. JOHNSON of Colorado submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1543) to provide for mustering-out payments to members of the armed forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That (a) except as provided in subsection (b) of this section, each member of the armed forces who shall have been engaged in active service in the present war, and who is discharged or relieved from active service under honorable conditions on or after December 7, 1941, shall be eligible to receive mustering-out payment.

"(b) No mustering-out payment shall be made to—

"(1) any member of the armed forces who, at the time of discharge or relief from active service, is receiving base pay at a higher rate than the base pay of the third period as prescribed in section 1 of the Pay Readjustment Act of 1942, as amended;

"(2) any member of the armed forces who, at the time of discharge or relief from active service, is transferred or returned to the retired list with retirement pay or to a status in which he receives retirement pay;

"(3) any member of the armed forces for any active service performed prior to the date of his discharge or relief from active service

on his own initiative to accept employment or, in the case of any member so relieved from active service, for any active service performed prior to the date of his discharge while in such inactive status, unless he has served outside the continental limits of the United States or in Alaska;

"(4) any Air Corps Reserve officer who is entitled to receive a lump-sum payment under section 2, as amended (55 Stat. 240), of the Act of June 16, 1936;

"(5) any member of the armed forces whose total period of service has been as a student detailed for training under (A) the Army Specialized Training Program, (B) the Army Air Forces College Training Program, or (C) any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard;

"(6) any member of the armed forces for any active service performed prior to the date of his discharge from such forces for the purpose of entering the United States Military Academy, the United States Naval Academy, or the United States Coast Guard Academy;

"(7) any member of the armed forces whose sole service has been as a cadet at the United States Military Academy or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of said Academies; and

"(8) any commissioned officer unless he is discharged or relieved from active service within three years after the termination of the present war as proclaimed by the President.

SEC. 2. (a) Mustering-out payment for persons eligible under section 1 shall be in sums as follows:

"(1) \$300 for persons who, having performed active service for 60 days or more, have served outside the continental limits of the United States or in Alaska.

"(2) \$200 for persons who, having performed active service for 60 days or more, have served no part thereof outside the continental limits of the United States or in Alaska.

"(3) \$100 for persons who have performed active service for less than 60 days.

"(b) Each person eligible to receive mustering-out payment under subsection (a) (1) shall receive one-third of the stipulated amount at the time of final discharge or ultimate relief from active service; and the remaining amount of such payment shall be paid in two equal installments—one month and two months, respectively, from the date of the original payment. Each person eligible to receive mustering-out payment under subsection (a) (2) shall receive one-half of the stipulated amount at the time of final discharge or ultimate relief from active service; and the remaining amount of such payment shall be paid one month from the date of the original payment. Each person eligible to receive mustering-out payment under subsection (a) (3) shall receive the stipulated amount at the time of such discharge or relief from active service.

SEC. 3. Any member of the armed forces entitled to mustering-out payment who shall have been discharged or relieved from active service under honorable conditions before the effective date of this Act shall, if application therefor is made within two years after the date of enactment of this Act, be paid such mustering-out payment by the War Department or the Navy Department, as the case may be, beginning within one month after application has been received and approved by such department: *Provided*, That no member of the armed forces shall receive mustering-out payment under this Act more than one, and such payment shall accrue and the amount thereof shall be computed as of the time of discharge for the purpose of effecting

a permanent separation from the service or of ultimate relief from active service.

SEC. 4. If any member of the armed forces, after his discharge or relief from active service, shall die before receiving any portion of or the full amount of his mustering-out payment, the balance of the amount due him shall be payable, on appropriate application therefor, to his surviving spouse, if any; and if he shall leave no surviving spouse, then in equal shares to his child or children, if any; and if he shall leave no surviving spouse or child or children, then in equal shares to his surviving parents, if any: *Provided*, That no payments under this Act shall be made to any other person.

SEC. 5. (a) Mustering-out payments due or to become due under this Act shall not be assignable and any payments made to or on account of a veteran hereunder shall be exempt from taxation, shall be exempt from the claims of creditors, including any claim of the United States, and shall not be subject to attachment, levy, or seizure by or under any legal or equitable process whatever either before or after receipt by the payee.

"(b) The Secretary of War and the Secretary of the Navy shall make such regulations not inconsistent with this Act as may be necessary effectively to carry out the provisions thereof, and the decisions of the Secretary of War and the Secretary of the Navy shall be final and not subject to review by any court or other Government official.

SEC. 6. As used in this Act—

"(a) The term 'member of the armed forces' means any member of the Army or Navy of the United States, the United States Marine Corps, the United States Coast Guard, or any of their respective components, and any member of the Women's Army Auxiliary Corps who was discharged under honorable conditions on account of disability.

"(b) The term 'spouse' means a lawful wife or husband.

"(c) The term 'child' includes (1) a legitimate child; (2) a child legally adopted; and (3) a stepchild, if, at the time of death of the member of the armed forces, such stepchild was a member of the deceased's household.

"(d) The term 'parent' includes father and mother, stepfather and stepmother, and father and mother through adoption.

SEC. 7. Appropriations for the Army and Navy, and the several components thereof, respectively, shall be available for the payments provided by this Act and necessary administrative expenses. There are hereby authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this Act. Amounts expended hereunder shall be included in the annual reports to the Congress by the departments concerned.

SEC. 8. This Act may be cited as the 'Mustering-Out Payment Act of 1944.'

And the House agree to the same.

ROBT. R. REYNOLDS,
ELBERT D. THOMAS,
EDWIN C. JOHNSON,
WARREN R. AUSTIN,
STYLES BRIDGES,

Managers on the part of the Senate.

ANDREW J. MAY,
R. EWING THOMASON,
MATTHEW J. MERRITT,
JOHN M. COSTELLO,
DEWEY SHORT,
LESLIE C. ARENS,
CHAS. H. ELSTON,

Managers on the part of the House.

Mr. JOHNSON of Colorado. Mr. President, I ask unanimous consent for present consideration of the conference report.

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

Mr. WHITE. Mr. President, reserving the right to object, may I ask the Senator if the report has been signed by all the conferees?

Mr. JOHNSON of Colorado. It has been signed by all conferees of both the House and the Senate.

Mr. WHITE. The minority conferees and the majority conferees as well?

Mr. JOHNSON of Colorado. It has been signed by all the conferees of both minority and majority.

Mr. McCARRAN. Mr. President, reserving the right to object, I should like to ask the Senator from Colorado what conclusions were finally reached with regard to mustering-out pay?

Mr. JOHNSON of Colorado. The conclusions finally reached with regard to mustering-out pay were to make \$300 mustering-out payments to any member of the armed forces who has seen 60 days or more of foreign service; \$200 to any member of the armed forces who has served more than 60 days, with all of his service in the continental United States—service in Alaska being considered the same as foreign service—and \$100 mustering-out pay to each member of the armed forces who has served for less than 60 days. This act does not provide for payments to any member of the armed forces who at the time of his discharge was receiving base pay at a higher rate than the base pay of the third period.

Mr. McCARRAN. That is, any inductee or volunteer who had been sworn into the armed forces and immediately mustered out would receive a mustering-out pay of \$100.

Mr. JOHNSON of Colorado. That is correct, as to members given an honorable discharge, and as to members who have not applied for an occupational discharge. A few other categories of the armed forces do not receive mustering-out pay.

Mr. McCARRAN. Regardless of what time he may have spent in the Army, if the serviceman had served overseas for any length of time he would receive \$300 on being mustered out.

Mr. JOHNSON of Colorado. Yes; if he had served more than a total of 60 days, either in continental or in foreign service. It is inconceivable that any member of the armed forces would have any foreign service until after he had served at least 60 days.

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the report was considered and agreed to.

Mr. JOHNSON of Colorado. Mr. President, I ask unanimous consent for the present consideration of a Senate concurrent resolution to correct a typographical error in the conference report which has just been considered and agreed to.

The PRESIDING OFFICER. The resolution will be stated.

The resolution (S. Con. Res. 31) was read as follows:

Resolved by the Senate (the House of Representatives concurring). That the Secretary of the Senate is authorized and directed, in the enrollment of the bill (S. 1543)

to provide for mustering-out payments to members of the armed forces, and for other purposes, to strike out the word "one" where it appears in the proviso in section 3 thereof and insert in lieu thereof the word "once."

Mr. WHITE. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. WHITE. I understood the Senator to say that the resolution was for the purpose of correcting a typographical error in the conference report, and for that purpose only.

Mr. JOHNSON of Colorado. The Senator is correct. The word "once" is misspelled. The "c" was left out and we wish to restore it.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 31) was considered and agreed to.

METHOD OF VOTING BY MEMBERS OF THE ARMED FORCES

The Senate resumed the consideration of the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting, in time of war, by members of the land and naval forces absent from the place of their residence, and for other purposes.

Mr. STEWART. Mr. President, I desire to speak briefly on the pending legislation, the soldiers' vote bill, but before doing so, I wish to take notice of a statement in the President's message to the Congress this morning, which I think is exceedingly unfortunate. Discussing the soldiers' vote legislation the President says:

I consider such proposed legislation a fraud on the soldiers and sailors and the marines now training and fighting for us and for our sacred rights. It is a fraud upon the American people.

The President was referring, as I understand, to the bill which was passed by the Senate in December and which is now pending in some form in the House of Representatives, possibly before a committee, or possibly it has been recently reported to the House; I am not sure of the actual legislative status of the bill.

I think the statement I have quoted is most unfortunate. I am prepared now to say that I shall support the pending measure, the so-called Green-Lucas amendment or bill, but I voted for the bill which passed the Senate in December to which I understand the message to refer, and I do not consider that I perpetrated a fraud on the American people or that other Members of the United States Senate perpetrated a fraud upon the people of America.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. BARKLEY. I appreciate the feeling of the Senator from Tennessee in regard to the use of the language to which he has referred in the President's message. I am satisfied that no one in the United States has greater respect personally for the Members of the Senate and the House of Representatives

than has the President. What he was talking about and what he had in his mind was the effect of the bill which the Senate passed and which is now before the House of Representatives.

I am satisfied that the President did not mean to create the impression that individually Members of the Senate had deliberately or intentionally perpetrated a fraud on the American people, but that the effect of the legislation was to hold out a hope to the people and the armed forces that could not be realized and fulfilled, and therefore it was a false hope. That is the sense in which the President used that language. We all know that in writing documents, letters, or other papers we have our own way of expressing ourselves. If the Senator from Tennessee had been writing that he would have expressed it, no doubt, in different language.

Mr. STEWART. And probably made it much worse.

Mr. BARKLEY. But I am sure that I put the proper interpretation on the use of the words in the President's message. He had no Senator in mind or in view, but considered that the effect of the legislation with which he was disagreeing was to hold out a false hope to the soldiers, and, therefore, in that way it worked what we might say was deceit upon them, because it was a sort of electoral mirage because of which the soldier got the idea he could vote when perhaps, under the bill, he would not be able to do so.

I am frank to say that I entertain the same view of the bill that was passed by the Senate. I did not believe that under it, because of its unworkability, the soldiers and sailors could vote. I voted against it for that reason; but, of course, in voting against it I did not entertain the idea in any way that any Senator here or all of us together had intentionally or deliberately worked a fraud upon the American people. I do not think the President meant his statement in that sense at all.

Mr. STEWART. I thank the Senator for the explanation, and I hope it is correct. I cannot conceive of the President of the United States having any intention or purpose to reflect, either directly or indirectly, upon the integrity of any Member of this body.

I agree with the Senator that the bill which was passed appears now to be unworkable, and that is the reason I have been seeking during this entire month some means or method that would satisfy my mind and which might make it possible for the millions of men and women in the armed forces to vote.

Mr. President, the Green-Lucas bill now before the Senate is an amendment to the soldiers' vote bill passed in September 1942 and now known as Public Law 712. It amends that law principally in two respects. First in importance, it provides that the validity of the serviceman's ballot shall be judged only by local election officials. This retains for the county and State officers of election in every State the control of that question. Second, the amendment provides a more practical and workable method of handling the ballots of the servicemen,

insuring better opportunity for them to cast their vote in due time.

The first Green-Lucas bill, which was rejected by the Senate last December, was amended by the Eastland amendment which gave to each State the right and full responsibility of controlling absentee balloting by servicemen. I supported that amendment, although had it failed I would have voted for the bill as introduced, because I am anxious that we do all in our power to give the soldiers fighting in this war the opportunity to vote. The Green-Lucas amendment now before the Senate, however, should be much more acceptable to Senators from the Southern States who have always strongly supported the idea of State control of elections.

We are now confronted, however, with the proposition that the Eastland amendment presents a plan impossible of performance. The President in his message to Congress on January 11 said concerning the soldiers' vote:

Our armed forces are valiantly fulfilling their responsibilities to our country and our people. Now the Congress faces the responsibility for taking those measures which are essential to national security in this the most decisive phase of the Nation's greatest war.

Several alleged reasons have prevented the enactment of legislation which would preserve for our soldiers and sailors and marines the fundamental prerogative of citizenship—the right to vote. No amount of legalistic argument can belaud this issue in the eyes of these 10,000,000 American citizens. Surely the signers of the Constitution did not intend a document which, even in wartime, would be construed to take away the franchise of any of those who are fighting to preserve the Constitution itself.

Our soldiers and sailors and marines know that the overwhelming majority of them will be deprived of the opportunity to vote if the voting machinery is left exclusively to the States under existing State laws—and that there is no likelihood of these laws being changed in time to enable them to vote at the next election. The Army and Navy have reported that it will be impossible effectively to administer 48 different soldier-voting laws. It is the duty of the Congress to remove this unjustifiable discrimination against the men and women in our armed forces—and to do it as quickly as possible.

The Secretary of War and the Secretary of the Navy have stated that they would do all in their power to help carry out the will of Congress in respect to soldier voting, but they point out that the Eastland amendment, or bill, referred to as S. 1285, as it passed the Senate on December 5, 1943, cannot be complied with.

The War Department wrote a letter on January 11 last which was read before the Committee on Privileges and Elections by Colonel Cutler on January 20.

I wish to call the wording of this letter specifically to the attention of the Members of the Senate. It shows, as I see it, the absolute impossibility of compliance with the law as it now stands. This is the letter:

The War Department has already indicated, in connection with a prior version of S. 1285, that it may be possible, weather and military conditions permitting, in respect to one election, to carry in bulk by air, overseas and back, within a short time ballots which

are uniformly light in weight and small in size. But the War Department does not believe that such expeditious carriage can be made a matter of daily routine over several months or weeks, as would be required to meet the provisions of the laws of the different States. Nor can any assurance be given in advance that recent average time of air carriage for mailed material can be regularly maintained in respect to many individual mailings of State balloting material over several months or weeks, or that the volume of what is now being carried by air can be increased or even maintained.

The effective operation of a voting procedure predicated on daily, uninterrupted air carriage overseas and back by the Army of masses of State absentee balloting material is dependent on three factors beyond control: weather, war, and plane space.

Unfavorable flying conditions may at any time interrupt for considerable intervals the carriage of any air mail to one or more theaters. When flying is resumed, the carriage of urgent military material and personnel must, for manifest military reasons, take precedence over mail. The Army does not operate, like the Post Office, as a regular carrier of mail. The primary requirement of waging a victorious war obviously determines whether any space in any military plane will be available to carry any mail.

The War Department is now bending every effort to fly to and from the front as much home mail as possible. It regards the receipt of such mail overseas and at home as the most important morale factor in the war. At the present time, there is not available sufficient plane space to carry all the letters to and from home.

As more men go overseas, the volume of this vital home correspondence will increase, further taxing air facilities.

Listen to this:

The bulk of a single average State absentee ballot, plus envelopes and voting instructions (averaging 3 ounces altogether) would by its size and weight displace over a thousand V-mail letters in microfilm. If this displacement were multiplied several million times, in two separate air carriages, over a period of several weeks or months, the most important of all morale factors would be dangerously prejudiced.

Although it may be possible to fly mailed material to a given theater in accordance with the average time recently obtaining (as, for example, 10 days from the Atlantic seaboard to the Mediterranean theater), the finding of the individual addressee in that theater may take many days.

It is an unrealistic appraisal of war conditions to assume that the serviceman addressee can always be found and can act within a few days.

The War Department letter continues:

A dozen or so States now require a special form of application for ballot and their voting procedures entail a minimum of four air carriages, apart from the transmission of the initial post card. Even where only two air carriages, in addition to the initial post card, are involved, there can be no assurance that the War Department will be able in wartime to air-carry all individual State ballots overseas, locate the servicemen addressees, and air-carry the executed ballots back to the postal authorities in the United States, within a few weeks.

The War Department believes that it is its duty to call these practical difficulties to the attention of the Congress. It would endeavor, to the best of its ability, to administer whatever laws the States might enact pursuant to congressional recommendation. But the exigencies of war circumscribe cooperation. With such a single law to administer, involving a single air carriage of light-

weight ballots in bulk overseas and a single air carriage of such ballots in bulk back to America, the accomplishment of servicemen voting outside of the United States remains only a possibility. Anything more onerous than such a procedure would be, to the extent of its burden in space, time, and diversity a more remote possibility.

It was further stated that in one of the principal theaters of war the Army is now able to carry only a little over half the air mail material which it receives from the United States to be carried there.

Thus, to repeat, it is a physical impossibility for the soldiers on foreign soil to be allowed the privilege of voting if the ballots are to be sent to them from the various States. We are therefore confronted by a practical choice of passing a law which will permit serviceman-voting, or simply letting the matter drop where it is.

I am as much concerned over the rights of the States of this Union as is anyone. I want to preserve them just as earnestly as anyone; especially do I think that the elective franchise should be controlled by the States. But we are now at war with several foreign powers. We were attacked suddenly and without warning by the cowardly Japanese on December 7, 1941, and are now engaged in a struggle of defense which has become world-wide. American men and women are in every theater of war in the world—they are there by the millions, wearing the uniform of their country and fighting an enemy which seeks our destruction. These men and women of America but yesterday were civilians engaged in peaceful pursuits of a happy life here in a great land. They were farmers, mechanics, clerks, lawyers, doctors, students. They were exercising the full rights of citizens of the United States of America, and among those rights was the right of suffrage.

Perhaps when he received his draft notice one young man was on his way to the courthouse in his home county, going there for the purpose of registering or paying his poll tax so that he might vote in an approaching election. Of course, when his country called, he turned aside from his routine and peaceful mission. He forgot to register; he forgot to pay his poll tax; he hurriedly prepared to answer his call and don the uniform of a soldier to go out and fight for his country, believing that those who remained at home would carry on the business of government and protect his rights and interests.

We are therefore confronted with the very vital and inescapable problem of making it possible for these soldiers—who are not professional soldiers at all but are civilians, as I have said, from every walk of life—to exercise their political and civil right of casting a ballot for President of the United States and for the Members of both Houses of Congress.

There are approximately 10,000,000 of these American citizens in the armed forces of our country at this moment. They want to vote; they want the right to vote especially for the Members of the Congress and for President of the United

States. As a matter of fact, most of us have talked with soldiers and have received letters from soldiers requesting the right to vote, and asking that we aid in making it possible for them to do so. They want to vote because they are American citizens; they want a voice in electing their representatives in Congress; they want a voice in electing their President, their Commander in Chief, if you please. If they do not have a right to select their own Commander in Chief, who can say that others should have that right?

Is it undemocratic to say that they should not be allowed to select their own leader? They want to vote because that is the way a democratic government is maintained, because it is one of the inherent rights of the citizens in this democracy. They want to vote because they are concerned about conditions here at home. They are concerned with the home-front morale, if you please. They want to vote because they are concerned about certain activities taking place on the home front.

They want to vote because they are concerned about the type of men who represent them in national affairs. They want to vote to make secure and certain their line of supply—to secure their families against inflation—to secure their Government against selfish pressure groups. They want to vote because their very lives may depend upon it.

I have talked with a great many servicemen about this question, and so have other Members of the Congress, and if the right to vote is not granted them, and the means of doing so made possible, it may seriously affect their morale. Everyone knows, especially do the military authorities know, that the effectiveness of any army rests fundamentally on morale. The serviceman must feel that he is fighting for a cause that is worthy, and that his efforts are being appreciated by the people of his country.

I have already stated that the American is not a professional soldier. He is a peace-loving person who enjoys the rights and liberties which have been preserved to him by the sacrifice and courageous endurance of his forebears and for these rights and liberties he will fight. But his arm will not be strengthened by the knowledge that we here at home are about to deny him one of the most important of these rights—namely, a feasible means for exercising his franchise.

Let me further remind Senators—and may they never forget it—it is we who put these men, our fellow citizens, on the battle fronts. It was not the State authorities, but we who put them there through our declaration of war under the war powers of our Constitution, and it is our inescapable obligation to take practical action, to take every possible action to preserve to them their rights and privileges of citizenship.

I turn, therefore, to the war powers provision, article I, section 8, of the Constitution of the United States, which gives to the Congress of the United States the right to enable the soldier to vote under such terms as are provided in the Lucas-Green amendment. This article of the Constitution reposes in Congress,

among other things, the power to declare war and to make all laws which shall be necessary and proper for carrying into execution such power.

In a speech delivered by the Honorable Charles Evans Hughes, for many years Chief Justice of the United States and now retired, at the fortieth annual meeting of the American Bar Association, held at Saratoga Springs, N. Y., in September 1917, on the subject of War Powers Under the Constitution, he stated in part:

The power to wage war is to wage war successfully. The framers of the Constitution were under no illusions as to war. They had emerged from a long struggle which had taught them the weakness of a mere confederation, and they had no hope that they could hold what they had won save as they established a Union which could fight with the strength of one people under one Government entrusted with the common defense. In equipping the National Government with the needed authority in war, they tolerated no limitations inconsistent with that object, as they realized that the very existence of the Nation might be at stake and that every resource of the people must be at command.

In discussing the war powers of Congress, Willoughby, on the Constitution of the United States, volume 3, second edition, paragraph 1033, at page 1568, has the following to say in part:

The constitutional power given to the United States to declare and wage war, whether foreign or civil, carries with it the authority to use all means calculated to weaken the enemy and to bring the struggle to a successful conclusion. When dealing with the enemy all acts that are calculated to advance this end are legal. Indeed, the President in the exercise simply of his authority as Commander in Chief of the Army and Navy, may, unless prohibited by congressional statute, commit or authorize acts not warranted by commonly received principles of international law; and Congress may by law authorize measures which the courts must recognize as valid even though they provide penalties not supported by the general usage of nations in the conduct of war.

Even in dealing with its own loyal subjects, the power to wage war enables the Government to override in many particulars private rights which in time of peace are inviolable.

In *Miller v. United States* (11 Wall. 268) the Court had before it certain confiscation acts, enacted by Congress during the Civil War and with reference to the prosecution of that war. These acts, the majority of the Court held valid as prescribing legitimate modes or means of carrying on the war. In the course of its opinion the Court said: "Of course the power to declare war involves the power to prosecute it by all means and in any manner in which war may be legitimately prosecuted."

This language the Court has repeated, in substance, in later cases.

In *Littlejohn & Co. v. United States*, to the contention that it was unconstitutional for Congress to provide, as it had provided by joint resolution of May 12, 1917, for the seizure and confiscation of enemy ships in its harbors in time of war, because such seizure and confiscation was not warranted by generally recognized international law and practice, the Court said: "It is unnecessary to consider how far the ancient rules of international law concerning confiscation of enemy property have been modified by recent practices. In the absence of convention every government may pursue what

policy it thinks best concerning seizure and confiscation of enemy ships in its harbors when war occurs."

In *Central Union Trust Co. v. Garvan*, the Court assumed without argument the validity of the Trading with the Enemy Act of October 6, 1917, providing for the seizure in wartime of property supposed to belong to the enemy.

Other illustrations of war legislation by Congress during the World War were the regulation of the price of fuel, the enforcement of Nation-wide prohibition, the commandeering of ships, the commandeering of various factory products, and the taking over for operation by the Government of the telegraph and railway lines of the country.

While, in general, it may be said that, in time of war, Congress has a practically unfettered constitutional discretion as to the means it will select for the successful prosecution of the war, and therefore, may do many things which it could not constitutionally do in times of peace, and especially with regard to disregarding the ordinary distinction between State and Federal functions. (As to Federal regulation of intrastate commerce in time of war, see *Northern Pacific R. Co. v. No. Dakota* (250 U. S. 135).)

Let me repeat, Mr. President, that under the war powers provision of the Constitution of the United States Congress has a practically unfettered constitutional discretion as to the means it will select for the successful prosecution of the war.

What are we considering here? We are considering a proposition which affects our own soldiers. For the reasons I have mentioned they want to vote. The most precious thing, so military leaders tell us, which military authorities nurse, is the fundamental of the higher morale in the Army. Did they not so indicate the other day when they testified before the Committee on Privileges and Elections on the bill, when they said they did not want to displace any more V-mail than it was necessary to displace because they considered the receiving by the soldiers overseas of letters from the families back home the greatest morale factor which exists at the present time.

Mr. MURDOCK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MURDOCK. As I recall, the Senator was present at the last meeting of the Committee on Privileges and Elections, and I believe he listened to the testimony of Colonel Cutler. Was there anything at all in the statements made by Colonel Cutler or in his demeanor or presentation of evidence which would indicate to the Senator that he was desirous of doing anything except carrying out the will of Congress relative to providing the soldiers an opportunity to vote?

Mr. STEWART. No; there was nothing. To the contrary, he said—and a moment ago I read from his letter which was presented before the Committee on Privileges and Elections—that it was now the purpose, and would continue to be, of all the armed forces—of the War Department, and even of the Navy, he said; and he referred to a captain in the Navy who was present—to undertake to carry out any law Congress enacted in this particular. But he said he considered it their duty to tell us

they had made a survey of all 48 States of the Union, and had found approximately 40 different laws in the 48 different States, and that as a practical proposition it was an absolute impossibility to comply with all those laws. That is the thing which convinced me.

There is no need, as I see it, for me to continue to butt my head against a brick wall, when the wall will not give way an inch. My head simply will not stand it.

Mr. MURDOCK. Mr. President, will the Senator further yield?

Mr. STEWART. I yield.

Mr. MURDOCK. I think I should also observe—and I believe the distinguished junior Senator from Tennessee will agree with me—that Captain Ramsay, of the Navy, also was present at the meeting, and endorsed everything Colonel Cutler said.

Mr. STEWART. Yes; he did.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MAYBANK. In connection with the discussion had between the distinguished junior Senator from Tennessee and the distinguished junior Senator from Utah relative to what was said at the committee meeting, let me point out that the colonel said he had nothing to do with respect to State supremacy regarding elections. I wonder if the Senator will be willing to have section 14 (a) of the bill printed at this point in the RECORD, or, if he prefers, at the conclusion of his remarks?

Mr. STEWART. I am perfectly willing to have that done. Probably it would be better to have it printed at the conclusion of my remarks. I think it proper to have it printed in the RECORD.

Mr. MAYBANK. Then, Mr. President, I ask unanimous consent that at the end of the excellent presentation by the distinguished junior Senator from Tennessee the section entitled "Validity of Ballots" be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit A.)

Mr. STEWART. Mr. President, I was digressing from the main theme of my remarks. I continue the quotation from Willoughby on the Constitution of the United States:

While in general it may be said that in time of war, Congress has a practically unfettered constitutional discretion as to the means it will select for the successful prosecution of the war and, therefore, may do many things which it could not constitutionally do in times of peace, and especially with regard to disregarding the ordinary distinction between State and Federal functions—

Mr. President, at this point let me digress again long enough to say, if I may repeat merely for emphasis, that therefore the Congress may do many things which it could not constitutionally do in times of peace, especially with regard to disregarding the ordinary distinction between State and Federal functions. We have always considered, and I still consider, the right to vote as being a State function. I would not desert that position now or at any other time if to

do so would be to take a permanent step. I am justifying the taking of such a step at this time—and I believe I have justified it in my own mind—on the basis of the right of Congress, under the war powers or war authority granted by the Constitution, to pass a law which will give the very simple right to vote to the men and women whom we take out of the ordinary walks of life and send abroad to fight the battles which will save this Nation. That is all I am appealing for. To do so is a duty and responsibility resting upon us; and, as I see it, we cannot escape it. I believe we have that right. I have other cases on the subject, to a few of which I desire to call attention, which I believe distinctly and definitely make this right clear, and which show, it seems to me, that the duty is one which rests upon our shoulders.

Mr. KILGORE. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. KILGORE. The system of absentee voting within the States was designed to take care of the business trips of their citizens who left the States on their own accord. Is not that correct?

Mr. STEWART. Yes. I believe that some of the laws which I examined say, "When the voter is absent on business."

Mr. KILGORE. Yes. It was for their own convenience.

However, the soldiers and sailors—the men and women in the armed forces—are absent from their States, not at their own convenience, but for the safety of the Government. In other words, we have suspended the ordinary system. The State system would not be superseded, because it is based on normal voting, not on the conditions under which we take the men and women away from their homes, without their permission, will, or consent, and deprive them of the normal opportunity to vote.

Mr. STEWART. I think that is a timely observation. However, I call attention to the fact that the measure now pending provides that the soldiers and sailors may vote under State laws, if any exist, and if they are feasible and practicable of operation.

Mr. KILGORE. Certainly, if it can be done. But the pending measure will take care of the very large group of persons who will not be able to vote under the State laws.

Mr. STEWART. If the Army says, "We cannot take State ballots to the boys and return them within a reasonable length of time," do we not have to take the Army's word?

The bill would simplify the means of voting. As I understand the matter, airplanes would not even have to be used. There would be ample time to have the ballots transported by ship. The ballots could be sent to the Mediterranean, to the South Seas, to the Pacific, where there is no telling how many of our soldiers and sailors have been killed during the time I have been addressing the Senate. The ballots could be transported in bulk by ship. In other words, large packages of ballots, printed in blank, could be transported in bulk. The individual ballots, as transported,

would not be printed with the individuals' names. It would not be necessary to locate each individual man. It would not be necessary to locate any particular private or lieutenant or colonel. It would not be necessary to seek out the individual voter, as must be done under the State laws. To attempt to do so would be to make it absolutely impossible to deliver the ballots to the soldiers. Under the pending bill it would be necessary only to transport the packages of ballots printed in blank. There would be no identification on them until the individual soldiers filled out their own ballots and signed their names to them. Then the ballots would be sent back to this country, to be distributed by the United States Government as the agent of the local election authorities in South Carolina, in Tennessee, in New Mexico, in Rhode Island, and in all the other States in the Union. The United States Government would deliver the ballots to them, so that the soldiers could vote for their Members of Congress and for their own Commander in Chief.

As has been said, the method proposed by the bill is purely a temporary expedient. I have never liked the word "expedient"; it seemed to me to be a weak word. But call it that if you will. The proposal is purely a temporary one, justified only under the authority of the war powers conferred under the Constitution, which give, as I see it, the right to this body and to the body at the other end of the Capitol to pass laws which will make it possible to deliver ballots to the soldiers of America.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MAYBANK. In keeping with the question asked by the distinguished senior Senator from West Virginia, let me inquire whether it is not true that in many States if a person is indisposed or has some slight illness he will be sent an absentee ballot, under the provisions of the present law, whereas a soldier who may be in a hospital in a foreign land will have no opportunity whatsoever to vote, under the laws now existing.

Mr. STEWART. Yes; it would be impossible for the ballot to reach him. That is the point which has impressed me in this connection more than anything else has done, and, as I have said, has caused me to seek some method by which we might make voting by soldiers possible and practicable.

Mr. MAYBANK. In other words, a person who is indisposed at home can vote, but a soldier who is in a foreign land, ready to give his life for those back home, cannot vote.

Mr. STEWART. That is correct. He is too far away. The ballots could not be delivered to him in the ordinary way.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. LUCAS. One other observation which I desire to make is that, in view of the fact that the Secretary of War and the Secretary of the Navy, Mr. Stimson and Mr. Knox, have been referred to by the Senator from Ohio during the

debate, the Senator knows that not a single Member of the Senate has ever said anything but the best about General Marshall and Admiral King. Everyone knows that under the military and naval strategy of those two estimable gentlemen we have carried on to one glorious victory after another. Undoubtedly the servicemen have complete confidence in those two officials, and the American people have complete confidence in them. In my humble judgment, the ballots which are sent to our men under the leadership of Admiral King and General Marshall are going to be sent in a fair and equitable manner, without the slightest attempt at coercion or intimidation of any kind. When it comes to the matter of intimidation or coercion, I would rather take a chance on having the soldiers' vote, wherever they may be, under the direction of Army officials than to take a chance on their voting in their home precincts. We would come nearer to getting an honest vote from the soldiers as a class than we would in the case of any other single group in the United States, in the opinion of the Senator from Illinois.

Mr. STEWART. I do not believe there is anything to fear so far as honest administration is concerned.

To take up the thread of thought again, let me read from Willoughby on the Constitution of the United States:

The Congress of the United States has the power, under the War Powers Act, to disregard the ordinary distinctions between State and Federal functions.

That is what I was talking about—disregarding the ordinary distinctions between State and Federal functions, and pushing them aside temporarily. The right of suffrage and the holding of elections have been State functions, and always have been so considered in peacetime. There has been talk of encroachment, but in peacetime I would not advocate the enactment of a law of this kind at all. I think that under the war powers in the Constitution it is absolutely justified.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MAYBANK. I thoroughly agree with the Senator; but it is still a State function, if section 14 (a) relating to the validity of the ballot, means anything; and I commend those on the committee who put that section in the bill to protect the States.

Mr. STEWART. That is a saving clause which is highly satisfactory to all of us, especially those of us from the South.

Mr. MAYBANK. That is correct.

Mr. STEWART. I made that observation earlier. Now, of course, I am undertaking to make a brief legal argument on the single proposition that the Congress of the United States has the right, under the war powers granted by the Constitution, to enact such a law, which would supersede all existing State laws.

As an illustration, Willoughby cites a case occurring in North Dakota, in connection with the regulation of intrastate commerce, relating to shipments made between two towns within the borders of

the same State. No one would think of advocating such regulation of intrastate commerce in peacetime, within the borders of the State. But because it was necessary, under the war powers of the Constitution the court upheld the right in the case of *Northern Pacific Railway Co. v. North Dakota* (250 U. S. 135). In a portion of that opinion the court said:

The complete and undenied character of the war power of the United States is not disputable.

Continuing with the quotation from Willoughby:

It nonetheless remains true that the express constitutional limitations upon the powers of Congress are not, for the time being, in abeyance. Thus, for example, the provisions regarding due process of law, the making of compensation for private property taken for a public purpose and, in general, the prohibitions of the first 10 amendments to the Constitution remain in force. And in all cases, the right remains in the courts to determine whether acts sanctioned by Congress have, in fact, any possible relation to the successful prosecution of the war.

Of course, it is a matter for the courts to determine.

The waging of war is, in its essence, an exercise of "police power," and, as such, the end will, in all reasonable cases, justify the means.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MILLIKIN. Of course, the Senator will recall the provision in article II, that the manner of the appointment of electors for President shall be in the hands of the State legislatures.

Mr. STEWART. Yes.

Mr. MILLIKIN. Is that an express provision?

Mr. STEWART. As the Senator knows, that has been a matter of controversy in a good many States. My State of Tennessee, for example, for a long time clung to the idea that the names of the electors for President should be set out separately and individually on the ballots, and each one marked with an "X" after his name. Now, if I correctly recall—and I am speaking from memory with regard to a statute of my own State—while we print the names of the electors on the ballot, 1 mark after the entire list of names requires that the ballot be counted for all 12.

Mr. MILLIKIN. Does not that come about because of the fact that the States, under the Constitution, expressly have the right to prescribe the manner in which electors shall be appointed?

Mr. STEWART. I do not know that I would go that far.

Mr. MILLIKIN. If that authority under the Constitution does not exist, then the State is doing something which is not authorized.

Let me add a further observation. Certainly that provision of article II is express, if by "express" we mean something that is spelled out in the English language.

Mr. STEWART. Yes.

Mr. MILLIKIN. If that be true, then under the authorities which the Senator

has been reading we have no right to violate that provision.

Mr. STEWART. If I may repeat what Willoughby has said with relation to war powers—

The waging of war is, in its essence, an exercise of "police power," and as such the end will, in all reasonable cases, justify the means.

The writer proceeds to state that whether these powers are in Congress is subject to review by the courts.

Mr. MILLIKIN. I thought I heard the Senator read something very definitely to the effect that if the power is express we cannot disturb it on the ground that we are exercising war powers.

Mr. STEWART. I shall be glad to read that portion again:

"The complete and undenied character of the war power of the United States is not disputable." It nonetheless remains true that the express constitutional limitations upon the powers of Congress are not, for the time being, in abeyance.

Is that what the Senator had in mind?

Mr. MILLIKIN. That is it exactly. With that as a premise, I am suggesting that article II of the Constitution, which gives the States the power to determine how the electors shall be appointed, is an express provision, and therefore cannot be violated by Congress.

Mr. STEWART. I make a distinction between an express provision and an express limitation. The case to which I referred related to the first 10 amendments, which were express limitations upon the powers of Congress.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. STEWART. I yield.

Mr. MILLIKIN. The precise part of article II to which I was referring is as follows:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress—

And so forth. That part of article II was not affected by the twelfth amendment which changed the next paragraph of the article.

Mr. STEWART. Does the Senator construe that to be an express limitation or an express provision?

Mr. MILLIKIN. I would construe it as a grant of authority to the legislature, and a limitation upon Congress not to violate it.

Mr. STEWART. A limitation in what way?

Mr. MILLIKIN. A limitation which arises out of the express grant of the power to the legislature.

Mr. STEWART. I do not have the bill open before me. I am sure the Senator has studied the form of the ballot. It provides, I believe, that the name of the voter shall be written upon it, and that he shall also write his party choice for President of the United States. Is that not correct? I do not have the exact page before me. It also provides that he shall write in the names of the Senators and Representatives.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MAYBANK. Is it not a fact since the Constitution was first adopted, and changed from time to time, that the legislatures of most States have their laws with respect to who shall be the electors and who shall not be the electors? The Senator spoke of Tennessee.

Mr. STEWART. There is a method provided in the ballot.

Mr. MAYBANK. In South Carolina there is provision for the Democratic Party and the Republican Party with regard to the names that shall be placed on the ballot, and those names represent, as the section states, the Senators and Representatives in the proportion allotted by the Congress.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MILLIKIN. Section 5 of the pending bill provides:

A vote by party designation shall be deemed to be a vote for the candidate of that party by name.

Mr. STEWART. That is correct.

Mr. MILLIKIN. The language continues as follows:

A vote for a Presidential candidate by name shall be deemed to be a vote for the candidate for Presidential and Vice Presidential electors of his party.

Mr. STEWART. How would that language contravene the provisions read by the Senator?

Mr. MILLIKIN. That, I submit, is prescribing the manner for the appointment of electors. Under article II that is committed to the State legislatures.

Mr. STEWART. I submit to the Senator that it does not contravene the provisions of article II read by the Senator. I do not think it contravenes the provisions at all.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MAYBANK. Is it not a fact that the Georgia Legislature has met and changed its law? Is it not a fact that the Legislature of West Virginia has convened and taken action? Is it not a fact that other legislatures are in session now in an endeavor to adjust some of these matters? All we are trying to do under the pending bill is to make it possible, in cooperation with the Army and the Navy, to have the ballots sent to the men in the service. Determination with respect to validity of the ballots is provided for in section 14 (a) of the bill, which reads:

The commission shall have no powers or functions with respect to the determination of the validity of ballots cast under the provisions of this title; such determination shall be made by the duly constituted election officials of the appropriate districts, precincts, counties, or other voting units of the several States.

I do not know the view of the distinguished Senator from Illinois on this point, but does he not believe that other States will pass conforming legislation, as the State of Georgia did in the very short session of its legislature?

Mr. LUCAS. Mr. President, I regret that my attention was diverted while the able Senator from South Carolina was speaking.

Mr. MURDOCK. Mr. President, will the Senator from Tennessee yield?

Mr. STEWART. I yield.

Mr. MURDOCK. I should like also to have the attention of the distinguished Senator from Colorado.

Is not this the answer to the question asked by the Senator from Colorado? If anything in the proposed legislation violates any constitutional right of the State, then, of course, insofar as it does violate such right it will not be considered to be effective by the judges of election?

Mr. MILLIKIN. That is correct.

Mr. MURDOCK. I believe that the Senator from Colorado has asked a very important question. I think the answer to it is that if the pending bill contravenes in any way the constitutional right of a State as prescribed in the Constitution, then certainly the bill must give way to the constitutional provision.

Mr. MILLIKIN. Mr. President, I agree completely with the Senator, but I suggest that the effect of that is that throughout the Nation, wherever the laws of the States do not conform to the constitutional provision in article II of the Federal Constitution, there will be a vast number of ballots thrown out, and that may throw the election into a contest.

Mr. MURDOCK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MURDOCK. I think that what the Senator from Colorado has said is very true. The Federal Congress has done all it can do, in my opinion, when it passes this bill and says to our soldiers, "The very fact that you are wearing the uniform of your country—the very fact that you are carrying a gun on the battlefields of the world for the preservation of the Union—is sufficient registration and sufficient qualification to entitle you to vote." Having said that, we have exhausted, as I see the picture, our right to make it possible for the soldier to vote. Having done that, if the local judges of any State of the Union wish to take the responsibility of throwing out the ballot of a soldier because it does not conform to the registration act of his State, all well and good. However, Mr. President, I doubt that an election judge will be found in the entire United States who will take the responsibility on his shoulders of throwing out the ballot of a soldier who is at the battle front fighting to preserve the Union.

I thank the Senator from Tennessee for yielding to me.

Mr. MILLIKIN. Mr. President, will the Senator from Tennessee yield to me?

Mr. STEWART. I yield.

Mr. MILLIKIN. I merely want to add one thought. I believe it would be very calamitous if that question were posed in the precincts of a large number of States of the country. I think it would lead to internal dissension. It would divide our people at home, and the election would be thrown into Congress for contest, and we would not even know who would be qualified to sit in judgment in the contest.

Mr. MURDOCK. Mr. President, my answer to the Senator is that I am willing

to take my chances and let the soldier vote.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. HATCH. Mr. President, I suggest that I have heard a great many fears expressed on the floor of the United States Senate concerning the bill which we are debating. I have never heard of any bill in connection with which there has been so much timidity and fear expressed as has been expressed in connection with giving to the soldiers of this country the right to exercise the suffrage.

A terrible fear has just been expressed here that a contest may occur somewhere. Mr. President, I express a fear today based on the attitude of the Senate and of the House of Representatives, if you please, that by our technical objections, by our quibbling, not a single soldier will be permitted to cast a vote in the next election.

I have heard questions raised with regard to article II pertaining to the electoral college. Does any Senator submit that that provision of the Constitution has been complied with in the last hundred years of the existence of this country?

Mr. MILLIKIN. Will the Senator yield?

Mr. HATCH. I do not have the floor, but I yield, with the consent of the Senator from Tennessee.

Mr. MILLIKIN. I submit it has been complied with in the last hundred years in every national election we have had. The only votes which are counted here to determine who shall be President and Vice President are votes cast by electors.

Mr. HATCH. I have been a Presidential elector myself, and if the Senator is naive enough to say that the electoral college selects the President of the United States, and has done so, he has not acted as an elector, as I have.

Mr. MILLIKIN. I am naive enough to say that the only ballots which come here to be counted to determine who shall be the President and the Vice President are the ballots cast by the members of the so-called electoral college.

Mr. HATCH. I suggest to the Senator that he make the argument to the soldiers serving in the Army of the United States.

Mr. MILLIKIN. I am willing to make the argument to the soldiers serving, because I do not consider that I am helping the morale of the soldiers serving if I do unconstitutional things. In my own State we are preparing to give them the right to vote. We are under way right now.

Mr. HATCH. I am delighted to hear that.

If I may interrupt the Senator from Tennessee, let me add one word more about States' rights. The Senator directed his attention to the laws he has read and the constitutional authorities, showing that under the exercise of the war powers expressly conferred, under the power to declare war, the Federal Government can suspend the operation of other State laws which are just as sacred to the rights of the States and individuals as the right to vote.

I need not recall to the minds of Senators the laws we have passed, and the laws other Congresses have passed, which have been upheld as a valid exercise of the wartime powers. One comes to my mind just now, the Sailors' and Soldiers' Relief Act. That law gives the Government the right to go into the States and suspend the processes of the State courts. Is there anything more sacred than the right of a State to conduct its courts, to render judgments, and enforce the processes of its own courts? Could any right be greater or more sacred than that? Yet the Congress of the United States, in order to protect the soldiers whom they had taken out of the States, enacted laws which literally suspended the rights of the States to enforce judgments.

Mr. MILLIKIN. Will the Senator yield?

Mr. HATCH. In a moment. Those laws have been upheld as valid and as constitutional, as a valid exercise of the powers of the Federal Congress to protect the civil rights of soldiers and sailors. And that was rightfully done, although at the time the cry of unconstitutionality against that law went up all over the land.

Mr. President, I say that the political rights of the soldiers, their political right, for instance, to cast their ballots, are just as sacred as civil rights. It is the duty of the Congress to enact legislation to protect the soldiers' political rights, even as we have already enacted legislation protecting their civil rights.

Mr. MILLIKIN. Mr. President, will the Senator from Tennessee yield?

Mr. STEWART. I yield.

Mr. MILLIKIN. I challenge the distinguished Senator from New Mexico to cite a single act of Congress which has been sustained as constitutional, in the name of an emergency, which contravenes an express provision of the Constitution of the United States to the contrary.

Mr. HATCH. Why does the Senator want to multiply them?

Mr. MILLIKIN. Multiply what?

Mr. HATCH. The Senator wants other cases. If one is good, why do we have to cite one or two or three or four more? Perhaps I did not understand the challenge.

Mr. MILLIKIN. The Senator either did not understand my challenge, or I did not make it clear. I shall try to make it clear.

The Senator has cited an instance in which he says some emergency Federal legislation had overridden State rights. I challenge the Senator to cite any case in which, in the name of emergency powers, an express provision of the Constitution has been overridden.

Mr. HATCH. An express provision of the Constitution was overridden in the Soldiers' and Sailors' Relief Act, in that all powers not granted under the Federal Constitution to the Government are reserved to the States, and under that express provision the rights of the States to conduct their own courts are expressly reserved for them, as expressly as if they had been written.

Mr. MILLIKIN. I do not recall anything in the Constitution which ex-

pressly provides that the right to pass legislation respecting relief for soldiers and sailors is confined exclusively to the State governments.

Mr. HATCH. There is not anything in the Constitution that says that.

Mr. MILLIKIN. That is the point, there is no express provision which has been overridden.

Mr. HATCH. I still am sorry, but I do not follow the Senator from Colorado, probably due to my own inability.

Mr. STEWART. Mr. President, there is a difference between express provisions and express limitations.

Mr. PEPPER. Mr. President, if the Senator from Tennessee will yield, certainly there is an instance of what would normally be called an impairment of a contract which a State had a right to enforce when the Federal jurisdiction is not properly invoked, and the Federal jurisdiction steps in and supervises the contract and sustains the power of the court to enforce it. The very essence of the dual system of government is that the State sovereignties have superior jurisdiction over that kind of a case. Yet the Federal Government steps in and refuses to allow the State sovereignty to exercise the power.

Mr. MILLIKIN. To what amendment of the Constitution is the Senator referring?

Mr. PEPPER. It is inherent in the nature of the dual system of government that the States have a right to enforce obligations between their citizens.

Mr. MILLIKIN. Yes.

Mr. PEPPER. And when the Federal Government says that A cannot enforce his contractual right against a soldier in a State court, due to the prohibition of a Federal act, that certainly is the Federal Government stepping in and staying the hand of a State sovereignty about a matter exclusively within its jurisdiction.

Mr. MILLIKIN. What amendment of the Constitution expresses the prohibition to which the Senator is referring?

Mr. PEPPER. Of course, section 9 of article I provides that no State shall pass any law impairing the obligation of a contract, and the fifth amendment, in the same substance, prohibits the Federal Government doing certain things without due process of law.

Mr. MILLIKIN. The fifth amendment is not a prohibition against the impairment of a contract except as the impairment is also involved in due process of law. The fifth amendment, as the Senator well knows, is a prohibition against the Federal Government, whereas the fourteenth amendment is a prohibition against State governments.

Mr. PEPPER. It is also true that under the dual system of government, the State government has jurisdiction over the enforcement of contractual obligations between its own citizens, or other citizens, where the case is not removed to the Federal court. There is certainly a right which the State has which is protected by the constitutions of the States, and normally is protected by the Federal Constitution. Yet the Federal Government steps in, in an emergency, and says that that machinery may not be employed, that those rights may not be en-

forced. The arm of State sovereignty is stayed.

Mr. MILLIKIN. I am suggesting that the prohibition of interest to the distinguished Senator is in the fourteenth amendment, and that the fourteenth amendment operates against the States and not the Federal Government.

Mr. PEPPER. Before the able Senator takes his seat, with the indulgence of the generous Senator from Tennessee, let me ask the Senator from Colorado what express prohibition he has in mind.

Mr. MILLIKIN. The express prohibition I have in mind is in article II of the Constitution, which provides that the manner of appointing electors for Presidential and Vice Presidential candidates shall be determined by the State legislatures, an express provision if English language can be used to fashion an express provision. This bill violates that.

Mr. PEPPER. In the first place, Mr. President, under the Federal Constitution, the times, places, and manner of holding elections is put within the jurisdiction of the Congress, and in the Classic case the Chief Justice went a very long way in indicating the plenary character of this Federal power pertaining to elections.

Mr. MILLIKIN. If the Senator will allow me to interrupt, to keep the discussion on the point, I am not talking about the times, places, and manner of holding elections; I am talking solely about the manner of appointing electors.

Mr. PEPPER. According to the Classic case, the time, and place, and manner of elections go far enough to cover the points the Senator has suggested.

Mr. MILLIKIN. On the contrary, I respectfully suggest that the Constitution itself provides the exception on which the Senator is relying.

Mr. PEPPER. In the next place, if it is suggested that the poll tax constitutes a prohibition under the qualifications clause of the Constitution, it has always been my opinion, and I think it will some day be held by the Supreme Court to be the law, that when Congress prohibits the charging of the poll tax it is not denying the right of the States to prescribe qualifications; it is simply prohibiting the imposition of conditions precedent contrary to civil rights.

Mr. MILLIKIN. I respectfully suggest that has nothing to do with the limited point I have expressed, that article II of the Constitution leaves to the State legislatures the exclusive right to determine the manner of electing electors for President and Vice President.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. STEWART. I will yield in a moment, if the Senator please. I address myself to the Senator from Colorado. The Senator referred to the fifth amendment to the Constitution. Does the Senator recall the incident in which the Japanese in California raised the question that the President had no right to issue the Executive order which prescribed a certain area as a military area, and applied a curfew law to those of

Japanese birth? Does the Senator remember that case?

Mr. MILLIKIN. I remember it.

Mr. STEWART. Of course, the fifth amendment to the Constitution expressly provides that a person's liberty, property, and so forth, cannot be taken away without due process of law.

Mr. MILLIKIN. I think that due process of law has sometimes been construed to be due process of law according to the facts and circumstances existing at the time, and the Supreme Court in that case said that the emergency was so great, that the possibilities of invasion and sabotage were so imminent as to validate the measure on a temporary basis.

Mr. STEWART. The measure before us is of a temporary nature.

Mr. MILLIKIN. As I recall, three of the Supreme Court Justices filed supplemental opinions making it very clear that as soon as the immediate urgency of those measures has expired, the measures may not continue to be valid against the entire class reached by them.

Mr. STEWART. Yes. One of the dissenting opinions, I believe, stated that the Court wanted it understood that it was not surrendering rights to the military, and so forth. But the point I am making is that the fifth amendment to the Constitution is an express provision. In the case in question, as the Senator will remember, the Supreme Court in an opinion by Mr. Justice Stone justified the Executive order strictly under the war powers of the Constitution. I have quoted that opinion in my memorandum. So there is one case in which an express provision of the Constitution was overridden.

In my opinion, I will say to the Senator—and the Senator has brought up a question which occurred to me—the distinction lies between an express provision in the Constitution and what we sometimes call an express limitation in the Constitution.

Mr. MILLIKIN. Perhaps there is a distinction in the Japanese case, and it may come to this: The fifth amendment prohibits violation of the due process. Due process is rather a dimensionless right which can be construed in the light not only of the traditional due process—

Mr. STEWART. It is in a way like the police power.

Mr. MILLIKIN. That is correct. But may be construed, also, in the light of current necessities, and current conditions, and current background. That, I suggest, is quite different from violations of words in the Constitution which spell out in unmistakable terms a definite right.

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. PEPPER. In reading the provision of the Federal Constitution which guarantees trial by jury it will be found that there is no exception to show that that provision is not applicable to a soldier in the military service. From a reading of the language of that constitutional provision it would seem that no citizen of the United States—and the

soldier is a citizen—could have his liberty taken away from him except by due process of law, by trial by jury, by presentment by a grand jury, although in another part of the Constitution we have a right to create an army, and so forth.

Mr. MILLIKIN. I think that the last statement gives the answer.

Mr. PEPPER. Yes; that is implied. It is one of those things we understand. It is an implied authority which pertains to those in the military or naval service. Yet on the face of it the trial of a soldier which takes place by court martial, or other than by a jury, would seem to be in violation of that provision.

Mr. MILLIKIN. I respectfully suggest that the Senator has answered the question himself when he points out that the Constitution expressly gives Congress the right to raise armies, and expressly gives Congress the right to establish rules and regulations for their government.

Mr. PEPPER. That is exactly the contention we make in the present case. Although the Constitution says what the Senator has quoted with respect to electors, yet the Constitution just as expressly and just as clearly gives the Federal Government the right to wage war. It gives the power to the country and to the Government of the country necessary to wage war. So that is a power which I say by analogy is granted. In one part of the Constitution there is a power granted by implication, but nevertheless real, to do the things which might appear to be in conflict with the provisions of the Constitution, of which the Senator has spoken.

Mr. MILLIKIN. I suggest the rule is rather well established that an express provision of the Constitution cannot be overcome by an implied provision.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. LUCAS. I wish to ask a question of the Senator from Colorado. The Senator said that his State was going to amend its law in such a way that the soldiers from the State of Colorado would be able to obtain ballots. How are the soldiers to obtain the ballots?

Mr. MILLIKIN. We are going to permit the soldier, or his parents, or anyone who lives in his residence, commencing February 1, to request that he receive an absent voter's ballot. As soon as the ticket is known, the ballot will be mailed to the soldier.

Mr. LUCAS. That is fine so far as a soldier in the United States is concerned. How is the soldier outside continental United States going to get his ballot?

Mr. MILLIKIN. The existing election laws will be so modified as to allow what the State thinks is sufficient time for the ballot to be sent to the soldier, to be marked and returned.

Mr. LUCAS. Who is going to carry the ballot to the soldier? Is some election commissioner in the Senator's State going to take the ballot to the soldier?

Mr. MILLIKIN. No, no. I suppose the mails will be operating between Colorado and the fighting fronts.

Mr. LUCAS. But who carries the mails? That is the point about the matter.

Mr. MILLIKIN. I hope the Congress will provide that the Government shall see to the carrying of the mails.

Mr. LUCAS. Oh, yes.

Mr. MILLIKIN. Exactly. Certainly Congress should so provide. Congress should provide that the soldiers have a prior right to get the ballots, second only to urgent military business.

Mr. LUCAS. That is all right, but the point I am making is that the State of Colorado, standing alone, does not have a Chinaman's chance to get a ballot anywhere other than through the mails.

Mr. MILLIKIN. I quite agree with that.

Mr. LUCAS. And it will be necessary to call on the Federal Government to cooperate in order to get the ballot to the soldier.

Mr. MILLIKIN. I agree. I do not know that we have to call on the Government especially, but it would be better if the Federal Government should require the giving of expedited attention to the ballots from the States.

Mr. LUCAS. No; I am talking about States' rights. Those who stand on States' rights say the States should do this. The States did it in the Civil War. The States did set up their own commissions, under proper legislative authority. They sent their commissioners to the fields where the soldiers were, and there they held elections and brought back the returns. But now the States must depend upon the Federal Government in order to do what the Senator from Colorado says should be done. That is the kind of cooperation we want to have between the State and the Federal Government. The Federal Government is willing, under all the testimony adduced, to do everything possible to get the soldiers' ballot out of Colorado, and back to Colorado so that it may be properly counted. But the Government officials say they cannot take all the ballots. They say it is impractical, under the laws of the 48 States, to do what the Senator says ought to be done, and which I agree should be done if it could be done. Some States may not cooperate. Some States may still have the 20-day absentee law or the 30-day absentee law and the 5 mail services. We cannot speculate as to whether the legislatures will hold special sessions and will cure all these defects. We know there will not be any uniform law which will affect all 48 of the States. We must depend on what the Army and the Navy say with respect to that, and then do the best possible thing, which is to enact a uniform Federal ballot for the men overseas, who never will see any ballot unless we provide that kind of ballot for them. If we do that, I undertake to say that if the Federal Government cooperates with Colorado in getting the State ballots to the servicemen, the State should cooperate with the Federal Government in attempting to get the Federal ballots back to the States. This matter is a traditional comity which has been going on for 150 years.

In this great emergency as a result of which millions of men, as has been said time and time again, have literally been picked up from their homes and transferred 2,000 or 3,000 miles away, Congress must find a way, under the Constitution, to enable them to vote.

I recall that in 1932, during another great emergency, the Supreme Court and the Congress found a way, under the welfare sections and the interstate commerce clause, to do certain things which many around the Capitol said could not be done because they were unconstitutional. Unconstitutional. Mr. President, I have heard that word used very frequently since I have been in Congress. I revere the Constitution of the United States. There is scarcely a controversial measure that comes before the Congress which is not said to be unconstitutional. Let the courts finally determine that question in this great emergency, and do not let Congress say to the soldiers, sailors, and marines who are fighting all over the world that, "because it is unconstitutional, I am not going to send you a ballot; I just cannot do it, under the Constitution." They do not appreciate that.

I thank the Senator for yielding to me.

Mr. MAYBANK. Mr. President, will the Senator from Tennessee yield so that I may ask the Senator from Illinois a question?

Mr. STEWART. I yield.

Mr. MAYBANK. I should like to remind the Senator from Illinois, with reference to the matter of States' rights, in which I believe, as he does, that during the banking holiday and during the terrible depression in March 1933, when the President of the United States ordered the banks closed, he ordered the State banks, as well as the national banks, closed, for the general welfare. Am I not correct about that?

Mr. LUCAS. There is no doubt about that. And they closed.

Mr. MAYBANK. That is correct.

Mr. LUCAS. Thank God for the banking moratorium the President declared at that time. Because of the great emergency, he had the banks in all the States closed, regardless of whether he had the power to do so.

Mr. MAYBANK. Yes; and the States cooperated.

Mr. LUCAS. Yes; the States cooperated, of course.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MILLIKIN. I should like to make a few remarks in reply to the remarks made by the distinguished senior Senator from Illinois.

In the first place, I cannot let the Senator give the impression that the Federal Government does a favor to the State when it carries its soldier mail. The Federal Government receives from the people of the States the money with which it carries the mail from the people of the States to the soldiers, and it is sustained entirely by the tax money of the people of the States.

Mr. LUCAS. I am talking about ballots, not mail.

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Mr. MILLIKIN. That is what the people are paying their taxes for—so that they can have services of that kind.

It is the duty of the Government to carry those ballots and to give them preference over everything except the most urgent military matters.

I thank the Senator for being so generous in yielding.

Mr. STEWART. Mr. President, I was about to say that we went a little far afield during the recent discussion. I enjoyed it, and was glad to have the interruption.

Returning to the proposition the Senator from Colorado and I were discussing, relative to the question whether an implied provision of the Constitution would override an express provision of the Constitution, I desire to call the attention of the Senator from Colorado to the following provisions under the war-powers section of the Constitution, which is section 8:

The Congress shall have power—

And so forth—

to declare war—

And so forth. Then, the last provision, which I believe is provision No. 18 or No. 20, reads as follows:

to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Those are two express provisions. First, the power to declare war, and the other provisions akin to it, such as the power to maintain a navy, and so forth; second, the power to pass any sort of law which is necessary to carry into force and effect any of the powers which are enumerated. That is an express provision, as I see it, and one which would thoroughly justify the passage of the Green-Lucas bill.

I want to make my position clear to the Senate, if I can do so. I maintain that that express power would fairly justify the passage of the Green-Lucas bill as a war measure, as an emergency proposition; because we have reached the point where we definitely know that the members of the armed forces will not have the ballots sent to them from the States, since the War Department has said it is impossible to transport them. Therefore, in the exercise of our discretion—such discretion as is imposed in the Congress by the Constitution—under these war powers, because we are in a great emergency, as the Senator said with respect to the moving of the Japanese from California, we can invoke the power granted by the last provision relative to war powers, and can pass any law necessary to enforce and carry out the war powers section if we determine that the morale of the Army demands the passage of such a law. The question is one of morale, and it is most important to any Army that the standard of morale be high. If we exercised that discretion and passed such a law, would not the Senator think we would have express authority to do so under the war-powers provision?

Mr. MILLIKIN. No, Mr. President. I am sorry to have to disagree with the distinguished junior Senator from Tennessee. It is difficult to draw the line between where we must stop in expanding our war powers and where we must respect other express provisions of the Constitution. No one yet has drawn a line. There are areas of doubt. But no one has ever suggested that we can carry those war powers so far as to impair any essential part of the structure of the Constitution. My memory may be playing me false, but I think that if the Senator will reread the article written by Mr. Justice Hughes, to which the Senator referred a while ago, he will find that, or the equivalent of that, stated in it.

The business of voting for a President, the business of voting for a Member of the House of Representatives, the business of voting for a Senator, the sanctity and the legitimacy of that process, go to the heart of our system of government, are a part of the essential structure of our system of government. I say we can no more impair that than we can sit here and pass a law deposing the President of the United States, if we thought him unworthy as Commander in Chief or President in time of war. We can no more do that than we can pass a law that there shall be two supreme courts, in the face of the constitutional provision for only one. That, Mr. President, is what I mean.

Mr. STEWART. Mr. President, the Senator has been making an excellent argument which would apply with force and effect in times of peace. But in times of war all the traditional thoughts or traditional ways of thinking and methods of living are completely overturned and upset. I believe that we have in this country a Constitution which is flexible enough, under the democracy of which we are so proud, to meet any sort of emergency, under any sort of conditions.

Mr. President, perhaps I had better proceed with my statement, which I almost forgot.

Mr. MILLIKIN. Mr. President, will the Senator let me interrupt him long enough to thank him for his courtesy and patience in permitting my interruption?

Mr. STEWART. I am glad to have the Senator's thoughts on this question. Quoting further from Willoughby on the Constitution:

The power to wage war carries with it the authority not only to bring it to a full conclusion but, after the cessation of active military operations, to take measures to provide against its renewal. As the court said in *Stewart v. Kahn* (11 Wall. 493), "The measures to be taken in carrying on war and to suppress insurrection are not defined. The decision of all such questions rests wholly in the discretion of those to whom the substantial powers involved are confided by the Constitution."

That is, the decision as to what measures we shall enact which are necessary to help win the war. It was testified before the Privileges and Elections Committee that the morale factor was the most fundamental of all. Everyone knows that it is. Everyone knows that an army which has an uncertain or weak

morale will not be a victorious army in the field. Everyone knows the dangers which would lurk in such a condition and would surround such an army. They are fraught with possibilities which I could not describe.

The Privileges and Elections Committee heard the testimony of men from the Army and Navy. They continued to speak about morale, and insisted to us that they did not want any laws enacted which would interfere with or interrupt the carrying of the V-mail to the soldiers from their families here because of the precious morale factor involved.

So this body is left with the discretion to work out what kind of measures we think ought to be enacted which will aid in winning the war.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. TYDINGS. If the Congress were to enact a law providing that the ballot shall be 4 inches wide and 6 inches long, and the provisions of several State laws provided that the ballot should be 12 inches wide and 24 inches long, it might be argued that the Federal Government had no right to dictate the size of the State ballot. But if after such a law were enacted by Congress, the States should then rewrite their laws to conform with the national law, certainly there would be no conflict between the two, and the provisions of both laws could be carried out. The Senator will concede that, will he not?

Mr. STEWART. I concede that.

Mr. TYDINGS. It seems to me that what is involved is this: Let us assume for the sake of argument that the points made by the Senator from Colorado [Mr. MILLIKIN] are good. Now let us suppose that we dictate the type of ballot, the time, the names of candidates, and everything else in a Federal law. If the States do not conform to that law the whole thing will break down anyway. But if the States do conform to that law, we have taken a devious and somewhat questionable method to achieve a desirable result. Therefore, if we should enact such a law, and all the States should change their laws to conform to the national law, the thing would work. But if we do not enact some law, even if it is unconstitutional, the thing will not work. So it seems to me that we are in the position that if we enact the Green-Lucas bill and the States conform to its provisions, all the constitutional questions will eventually solve themselves. Without conceding the force of the arguments of the Senator from Colorado, certainly if the States conform to the Federal law, the whole question of illegality or unconstitutionality will be pretty nearly laid at rest. It is that particular idea, along with the general improvement in the constitutional provisions of the new Green-Lucas bill, which inclines me to give it my support, because I believe the States would enact laws, if their constitutions permit it, which would bring the State laws into harmony with the Federal law. Thus, even though the Federal law were unconstitutional and were so held in the future, in effect we

would have achieved the result by the method we are employing.

Mr. STEWART. I thank the Senator.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. HATCH. If I correctly understand the Senator from Maryland, what he is suggesting by way of argument is that perhaps the Congress ought to take into consideration the situation in our armed forces, as described by our officials of the Army and Navy, with respect to the administration of the law.

Mr. TYDINGS. They have told us the only way it can be administered.

Mr. HATCH. The Congress might enact legislation in accordance with that theory as a pattern.

Mr. TYDINGS. Such legislation might be unconstitutional.

Mr. HATCH. But if the States really desired to cooperate, the States which were in a position to do so could adopt that pattern for their own laws, and thereby entirely remove any question of constitutionality.

Mr. TYDINGS. The Senator has stated it correctly. If the States should fail to act, it might be said that the Federal law was either insufficient or unconstitutional.

Mr. HATCH. It would be up to the courts to decide.

Mr. TYDINGS. But if the States do act, all questions are removed.

Mr. HATCH. I wish to make one further observation in line with what the Senator has said. Without this pattern—if we may call it such—established by the Congress, there would be no uniform design by which all the States could bring their laws into accord.

Mr. TYDINGS. The Senator states the situation correctly. If the Senator from Tennessee will yield to me for a moment longer, the ideal way would be to draw up a pattern and to request each State to adopt it. Let us assume that all 48 States should adopt it. Then we could enact Federal-enabling legislation. Unfortunately, the practical situation is that the States will not do it until we do something formal here.

Like the Senator from Colorado [Mr. MILLIKIN] I believe that we cannot violate the express provisions of the Constitution, either in time of war or in time of peace. Assuming that we do violate them, if the States afterward conform to the Federal law, the question of illegality will never arise. If they do not conform, the soldiers will not have the opportunity to vote, even with the law, and they would not have it without the law.

Mr. STEWART. Mr. President, does the Senator see a conflict between two express provisions of the Constitution?

Mr. TYDINGS. I do not wish to enter into a legal argument, but inasmuch as I have been asked the question, I will make an observation. In my opinion, no express and clear provision of the Constitution can be set aside by act of Congress, either in time of war or in time of peace, for this reason: If we can set aside one provision, we can set them all aside, and have no Constitution. We

can extend the term of a President or of a Senator to 8 years, or decree that, in the public interest, there shall be no elections. When we start that, we end with nothing.

In the celebrated case of *Ex parte Finnegan* the court specifically said that the Constitution is a shield and buckler in time of peace as in war. But I go further than that. I do not like to vote for something the constitutionality of which is in doubt; but so long as the qualifications of voters are left to the States, the point raised by the Senator from Colorado will in my judgment eventually be eliminated, because, in my opinion, the States themselves will change their laws to conform with the provisions of the Green-Lucas bill; but if they do not change them, I think the arguments of the Senator from Colorado deserve very much weight. However, it is my belief that with the natural desire of everyone to give the soldiers a vote, the procedure which we are about to employ will eventually dissipate the unconstitutional efforts which we might be accused of making, and in the end we would arrive at sound law, with one qualification. That statement would not apply to the States which did not enact such legislation in conformity with the Federal provision which we have under consideration.

Mr. STEWART. The Senator is no doubt familiar with the 18 or 20 different war powers given to the Congress in the Constitution, the last of which I read a few moments ago.

Mr. TYDINGS. I understand that. Among those powers is the authority to maintain a navy.

Mr. STEWART. The Constitution gives us the power to enact laws to carry out those powers.

Mr. TYDINGS. That is true.

Mr. STEWART. Is not that an express provision of the Constitution?

Mr. TYDINGS. It is; but let me say to the Senator that no one power in the Constitution authorizes Congress to violate any other power.

Mr. STEWART. Which one would the Senator follow?

Mr. TYDINGS. There is no conflict. I am not referring to all the points which have been raised. I am referring merely to one illustration. In my judgment, section 1 of article II of the Constitution, where it provides that the electors shall have the qualifications requisite for the electors of the most numerous branch of the State legislature, clearly touches a matter of States' rights. The pending bill provides that that express provision of the Constitution shall not be violated; that the ballots shall be counted by the State officials. If we assume that the argument of the Senator from Tennessee [Mr. STEWART] is sound, we say in effect that one provision of the Constitution is stronger than another. I believe the courts would be very liberal in passing on the constitutionality of an act in time of war.

However, that is not what I rose to discuss. I merely wanted to make the observation that if we pass a law which is merely directory in its ultimate objec-

tive, and the States conform to it by State law, we have eliminated largely the question of constitutionality. I believe the States will conform to what we pass when we tell them what the conditions are.

Mr. PEPPER. Mr. President, will the Senator from Tennessee yield to me for a moment?

Mr. STEWART. I yield.

Mr. PEPPER. Apropos of what the Senator from Maryland [Mr. TYDINGS] has said, I think it is admittedly clear that what he has stated is true so far as it relates to the Federal official.

Tomorrow I shall propose, for whatever value it may have, a suggestion that the Federal ballots may be lengthened by the ballot commission to an extent which would permit the serviceman—with the authorization of the States—to write upon the ballot the name of the officer, State, county, or local, for whom he desires to cast his vote, and then make it the duty of the ballot commission to transmit information to the soldier as to who are the candidates in the State, local, and county elections, just as they transmit information as to who are the candidates for President, Vice President, Senator, and Representative. If the State, having the uniform ballot which it may adopt, namely, the Federal ballot lengthened, chooses to authorize its soldier citizens to use such ballot, it may do so. The same ballot would carry the vote of the soldier for Federal and for local officials. I am confident that such a plan can be worked out.

Mr. STEWART. I thank the Senator.

Mr. President, quoting from the annotated edition of the Constitution of the United States of America, revised and annotated in 1938, I cite the following powers of Congress under the war-powers provision of the Constitution of the United States, namely, the powers referred to in section 8:

The term "to declare war" necessarily connotes "the plenary power to wage war with all the force necessary to make it effective."

Several cases are cited, to one or two of which I should like to refer. The first case is *United States v. Macintosh* (283 U. S. 605, 622 (1931)). I cite also *American Ins. Co. v. Canter* (1 Pet. 511, 542 (1828)).

The authority conferred by this clause extends to all legislation necessary to the prosecution of the war with vigor and success. It is not limited to operations in the field and the dispersion of the enemy, but carries with it the power to prosecute war to a termination, and to guard against its renewal. It includes the authority to use other means besides those indicated by the terms of the grant, and contemplates all means and in a manner in which war may be legitimately prosecuted. All acts tending to lessen an adversary's strength are lawful—*Ex parte Milligan* (4 Wall. 2, 139 (1866)). See also *Stewart v. Bloom* (11 Wall. 493, 507 (1871)); *Legal Tender Cases* (12 Wall. 457 (1871)); *White v. Hart* (13 Wall. 646 (1872)); *Raymond v. Thomas* (91 U. S. 712, 715 (1876)); *Young v. United States* (97 U. S. 39, 60 (1878)); *Ford v. Surget* (97 U. S. 594, 605

(1878)); *Civil Rights Cases* (109 U. S. 3, 18 (1883)).

The power carries with it the power to acquire territory by conquest. (See *Sere v. Pitoi*, 6 Cr. 332 (1810).) But a war declared by Congress is not to be presumed to be waged for the purpose of conquest; and territory is to be considered as added to the United States only by action of the treaty-making power or the legislative authority. Conquered territory while in possession of the military forces is a part of the United States as against any foreign nation, but is not a part of the Union within the meaning of the customs laws. (*Fleming v. Page*, 9 How. 603 (1850). See also *Castillero v. United States*, 2 Black 17, 355 (1863).)

Congress cannot under this clause declare war against a State of the Union or any number of such States (*Prize Cases*, 2 Black 635, 668 (1863)). See also *Norris v. Doniphan*, 61 Kentucky 385, 391 (1863). But it is not deprived of its war powers when the necessity for their exercise is called out by insurrection and civil war—*Tyler v. Defrees*, 11 Wall. 331, 345 (1871).

Power exercised by Congress for the prosecution of war has been upheld under this clause in specific cases as follows:

First. Draft laws: Civil War—See *Kneeder v. Lane*, 45 Pa. 238 (1863). World War—*Arver v. United States*, *Selective Draft Law Cases*, 245 U. S. 366 (1918); *Cox v. Wood*, 247 U. S. 3 (1918).

Second. The confiscation acts of 1861 and 1862—12 Statutes 319, 589, *Miller v. United States* (11 Wall. 268 (1871)); see also *Kirk v. Lynd* (106 U. S. 315 (1883)). A mere declaration of war does not ipso facto work a confiscation of enemy property; a positive law passed by Congress is necessary—*Brown v. United States* (8 Cr. 110, 123 (1814)); *Conrad v. Waples*, (96 U. S. 279, 284 (1878)).

Third. The act emancipating the slaves of persons aiding in the rebellion, 12 Statutes 591, section 9—see *Buie v. Parker* (63 N. C. 131 (1869)).

Fourth. Act of 1864, 13 Statutes 123, suspending the statutes of limitation of actions—*Stewart v. Bloom* (11 Wall. 493 (1871)). See also *Mayfield v. Richards* (115 U. S. 137 (1885)).

Fifth. Acts of Congress authorizing condemnation of land for monuments, and so forth, on the battlefield of Gettysburg were upheld as germane and appropriate to the exercise of the war-making power, especially in view of the fact that they plainly tended to enhance the love of the citizen for his country, and quicken his motives to defend it—*United States v. Gettysburg Electric R. Co.* (160 U. S. 663, 681 (1896)).

Sixth. The provisions of the Volstead Act (41 Stat. 305) extending the scope of the wartime prohibition act to include malt liquors of one-half of 1 percent alcoholic content, whether in fact intoxicating or not. *Hamilton v. Kentucky Distilleries & W. Co.* (251 U. S. 146 (1919)); *Ruppert (Jacob) v. Caffey* (251 U. S. 264 (1920)).

Seventh. In taking over and operating the railroad systems of the country the United States did so in a sovereign ca-

capacity, as a war measure, "under a right in the nature of eminent domain"—*Du Pont de Nemours Powder Co. v. Davis* (264 U. S. 456, 462 (1924)).

Section 8 of article 1 of the Constitution of the United States grants to Congress power in 20 particular instances and after granting this power, concludes by stating:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Thomas James Norton's *The Constitution of the United States, Its Sources and Application* thus comments upon the general grant of power above referred to:

This clause has been aptly described as the most solid and essential work done by the Constitutional Convention. It made a constitution adaptable to unforeseen conditions and serviceable for all time. * * * Experience under the Articles of Confederation had made this clause so plainly desirable that hardly any contention was raised by it in the Constitutional Convention. It neither grants a new power nor enlarges any of the others. Under the ordinary rules of interpretation, what is stated in this clause would be implied had the language been omitted.

I now desire to call the attention of the Senate to a case decided by the Supreme Court of the United States on June 21, 1943. This case, *Hirabayashi* against the United States, involved an American citizen of Japanese ancestry who was convicted in the district court for violating the act of Congress of March 21, 1942, which makes it a misdemeanor knowingly to disregard restrictions made applicable by a military commander to persons in a military area prescribed by him as such, or as authorized by an Executive order of the President. The appellant, *Hirabayashi*, raised the question that he should not be required, simply because he was of Japanese ancestry and resided in a certain military area, to be within his place of residence between the hours of 8 p. m. and 6 a. m. He raised the question that this Executive order and law was unconstitutional and was a discrimination between citizens of Japanese ancestry and those of other ancestry.

The court, in confirming the conviction of this man, upheld the law and Executive order under the war power of the Constitution as set out in article I, section 8, thereof, and from the opinion I quote the following:

The war power of the National Government is the power to wage war successfully. It extends to every matter and activity so related to war as substantially to affect its conduct and progress, and is not restricted to the winning of victories in the field and the repulse of enemy forces, but embraces every phase of the national defense, including the protection of war material and members of armed forces from injury and from the dangers of sabotage and espionage which attend the rise, prosecution, and progress of war.

It must be remembered that the war powers in the Constitution of the United States are like all other matters contained in that document, that is, they are powers that were given to the Federal

Government by the various States of the Union. It would be a futile thing, of course, for a State to undertake to declare war. That authority, that right, that duty, that power, is imposed upon the Central Federal Government by the Constitution of the United States, and, in acting under such power, the Federal Government, of course, acts for all of the States at the same time.

In waging this war the servicemen who are fighting on the far-flung fronts of the world must depend upon the Congress of the United States to pass the necessary legislation to raise the taxes which support it, and to do all the other things which are necessary from the legislative standpoint to see the war through to a successful conclusion. Only the Congress of the United States can do these things. The States cannot do them, and it is a perfectly natural thing that the serviceman should be interested in those who serve in the national Halls of Congress, and want to do his part to see to it that men serving here are of the type and character fully and completely to back him up while he is waging the war and is absent from home. He is also interested, as I have already said, in selecting his commander in chief because he certainly wants someone in that capacity who is in sympathy with the things he has been sent out to do, one who is capable of helping to plan the war, and who has the courage and fortitude to see that it is carried on to a successful conclusion, and that while it continues the armed forces may have everything that is necessary with which to wage it.

The selection of the Members of Congress and the Commander in Chief of the armies is a proper part of the prosecution of this war, and it is a function the servicemen have a right to perform, as a matter of both law and logic.

Of course, I am talking about a law that will continue only for the duration of the war. This is something we would not undertake in peacetime. It is justified only as a war emergency. There can be no more important contribution to the winning of the war than the maintenance of the high morale of the American service men and women.

I repeat this about the morale of the service men and women because I think that is the primary test which we apply to the validity of this soldiers' vote bill. I think the Government of the United States, through its constituted authority; that is, the Congress, owes a duty to the service men and women to pass this bill. I think this duty is a high moral duty, and I think that if we neglect the duty, and do not make it possible for them to have the right to vote in the coming elections of this year, we will have committed a definite sin of omission.

In the morning papers there appears an article quoting the Secretary of War, the Honorable Henry L. Stimson, who says that it is necessary for the Congress to pass legislation to draft labor. He refers to the same Congress which is now considering the soldier vote bill. The Secretary says he believes a national-service law would produce these results:

First, by clarifying the patriotic duty of the individual worker and at the same time imposing appropriate legal sanctions to encourage the performance of such duty, it will minimize the calling of strikes. At the same time it will reduce absenteeism and the shocking excess of turn-over of labor in many of our great war industries. These are evils which an antistrike law alone would not touch.

Second, it will remedy the grave sense of injustice which the armed forces now feel has been practiced against them.

Third, it will increase effectiveness in production, not only in keeping men in necessary jobs but also in finding men for particular jobs where they are especially needed, rather than leaving the choice to chance. In the week ending last night, there were no less than 22 strikes in progress in the United States in war plants producing such vitally needed material as airplane and tank parts, machine tools and jeeps, aviation gasoline, cable and wire, of which we are critically short, head nets and mosquito bars, which protect our soldiers in the southwest Pacific against malaria. During that week, because of these strikes, approximately 135,000 man-days of war production were lost, being the equivalent of nine divisions gone A. W. O. L. for one day.

I am calling attention to the statement of the Secretary of War for several reasons. First, he emphasizes the need for the law and says that the strikes which have been taking place in this country are endangering Army morale and threatening to prolong the war. He states that the Army feels a grave sense of injustice at these practices. It is quite possible that this outraged feeling on the part of the men in the armed forces to which the Secretary of War refers can be relieved by preserving to the servicemen the right to cast their ballots for those who would participate in the passage of laws which the Secretary advocates.

I think we have delayed this matter long enough. I believe the time has come for quick action. This is another test for democracy in action and may be pointed to as an illustration of such by both its friends and its enemies; its friends, who claim that it can and will function; its enemies, who say that it will falter and fail. We have the power to provide the means by which the serviceman can vote. It lies latent in the Constitution, and I think it is time to release that power and put it to a practical and prompt use.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. STEWART. I yield.

Mr. MAYBANK. The substance of the last few remarks the Senator made, as I understood them, was that certain of those who would strike and certain of those who would create turmoil in this country, were against the bill. In other words, if they knew the soldiers had the right to elect certain public officials, the morale of the Army itself would be stronger. Am I wrong in that?

Mr. STEWART. I was quoting a statement issued by the Secretary of War this morning, wherein he said that at this time 22 strikes were in existence throughout the country, and that within the past week the loss as a result of strikes had been the equivalent of 135,000 man-days. The Secretary says that affects the morale of the Army. My

statement was that if we passed the pending bill, and gave the members of the armed forces, the soldiers, sailors, marines, members of the Air Corps, and others, both men and women, the right to vote, it might appease their feelings, and make them realize that we at least are giving them an opportunity to register disapproval of the kind of act the Secretary condemns.

Mr. MAYBANK. At least those who are giving their all might register their disapproval against those on the home front today who are not back of the soldiers. I do not know that it would appease them but it would certainly give them the right to express their opinions. The Senator and I voted for all the anti-strike laws which have been proposed. I am glad the Senator brought this point out, and I am glad he called attention to the statement of the Secretary of War.

Mr. STEWART. I thank the Senator.

EXHIBIT A

VALIDITY OF BALLOTS

SEC. 14. (a) The Commission shall have no powers or functions with respect to the determination of the validity of ballots cast under the provisions of this title; such determination shall be made by the duly constituted election officials of the appropriate districts, precincts, counties, or other voting units of the several States. Votes cast under the provisions of this title shall be canvassed, counted, and certified in each State by its proper canvassing boards in the same manner, as nearly as may be practicable, as the votes cast within its borders are canvassed, counted, and certified.

(b) No official Federal war ballot shall be valid if—

1. the voter has also voted in person or by absentee ballot in accordance with the procedure provided by State law; or

2. the date of the oath of elector is later than the date of the holding of the election; or

3. such ballot is received by the appropriate election official of the district, precinct, county, or other voting unit of the State of the voter's residence later than the date of the holding of the election, except that any extension of time for the receipt of absentee ballots permitted by State laws shall apply to ballots cast under this title.

(c) All ballot envelopes received by a secretary of state at a date or time too late for proper delivery, and all ballot envelopes not delivered to polling places or to the proper officials shall not be opened but shall be endorsed with the date of reception and shall be retained by the secretary until the time has expired for contesting the election, when they shall be destroyed without examination.

COMMITTEE TO ATTEND THE FUNERAL OF THE LATE SENATOR VAN NUYS

The PRESIDING OFFICER (Mr. WALLGREN in the chair). The Chair has been requested by the Vice President to announce the membership of the committee on the part of the Senate, to take order for superintending the funeral of the late Senator Frederick Van Nuys, of Indiana, as follows:

The Senator from Indiana [Mr. WILLIS], the Senator from Montana [Mr. WHEELER], the Senator from Nevada [Mr. McCARRAN], the Senator from Oregon [Mr. HOLMAN], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Colorado [Mr. JOHNSON], the Senator from Michigan [Mr. FERGUSON], the Senator from Arizona [Mr. McFARLAND], the Senator from Utah [Mr. MURDOCK],

and the Senator from Nebraska [Mr. WHERRY].

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGE—WITHDRAWAL OF A NOMINATION

The PRESIDING OFFICER (Mr. MILLIKIN in the chair) laid before the Senate a message from the President of the United States withdrawing the nomination of John W. Lunday, Jr., to be postmaster at Biloxi, Miss., which was ordered to lie on the table.

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. REYNOLDS, from the Committee on Military Affairs:

Sundry officers for appointment, or appointment by transfer, in the Regular Army; and

Sundry officers for temporary appointment in the Army of the United States, under the provisions of law.

By Mr. WALSH of Massachusetts, from the Committee on Naval Affairs:

Capt. Campbell D. Edgar, United States Navy, to be a commodore in the Navy, for temporary service, while serving as commander transports of an amphibious force, to rank from the 17th day of September 1943.

By Mr. MCKELLAR, from the Committee on Post Offices and Post Roads:

Sundry postmasters.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the nominations on the Executive Calendar.

DEPARTMENT OF THE INTERIOR

The legislative clerk read the nomination of Abe Fortas to be Under Secretary of the Interior.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. BARKLEY. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the postmaster nominations are confirmed en bloc.

That completes the Calendar.

Mr. BARKLEY. I ask unanimous consent that the President be immediately notified of all confirmations of today.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

RECESS

Mr. BARKLEY. As in legislative session, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 56 minutes p. m.) the Senate took a recess until tomorrow, Thursday, January 27, 1944, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 26 (legislative day of January 24), 1944:

DEPARTMENT OF THE INTERIOR

Abe Fortas, of Tennessee, to be Under Secretary of the Interior.

POSTMASTERS

ARKANSAS

Mrs. Archie Beard, Barling.
William M. Dickens, Bigelow.
Robert H. Bridger, Brookland.
John M. Simmons, Harrisburg.
Kathryn Arnold, Midland.
Edna M. Brown, Peach Orchard.
Edith L. Armstrong, Pea Ridge.
Lady E. Weatherston, Pottsville.

CONNECTICUT

Bruce B. Randall, Bridgewater.
Robert J. Boyd, South Kent.
Ralph A. Booth, Stafford.

ILLINOIS

Chris R. Leins, Danville.
Charles L. Altman, Edgewood.
Clayton B. Faber, Genoa.
David H. McCluggage, Peoria.

MICHIGAN

David E. Visnaw, St. Clair Shores.
George Q. Brace, Sparta.
Edwin T. Nyquist, Vestaburg.

MONTANA

William E. Conn, Forsyth.
Knute E. Johnson, Ronan.

NEBRASKA

Grade H. Smith, Bennet.
James M. Timmons, Eustis.
Bertha P. Palmer, Fairfield.

NEW MEXICO

Denzel L. Lee, Dexter.

NEW YORK

Clyde M. Johengen, Collins.
Charles J. Jones, Garnerville.
Mary T. Mushier, Rocky Point.
Anne N. Cislser, Stillwater.

NORTH CAROLINA

Robert M. Kiser, Bessemer City.

OREGON

Henry R. Crawford, Salem.

TENNESSEE

Edgar M. Quisenberry, Atoka.
Joseph L. Arrington, Cordova.
Percy E. Beard, Kingston Springs.
Edgar D. Robinson, Lancaster.
Bertha M. Cooper, Powell Station.

TEXAS

Aileen M. Greer, Chireno.
Lenore H. Boothe, Gonzales.
Allen A. Collet, Handley.
Tempest Adams, Skellytown.
Myrtle B. Clark, Vidor.

VERMONT

Annie J. Graff, Readsboro.

VIRGINIA

Hugh E. Love, Boissevain.
Annie G. Davey, Evinston.
Emily B. Chinn, Hague.
Charles M. Saunders, Milford.
Indiana B. Poindexter, Morrison.
W. Roger Burgess, Mount Crawford.
Dewey B. Bennett, Ringgold.
Anna R. Brown, Woodlawn.

WEST VIRGINIA

Eleanor M. Lantz, Blacksville.
Charles Pelfrey, Fort Gay.
Eddith Fox, Gilbert.
George L. Carlisle, Hillsboro.

WISCONSIN

Cora J. Sorenson, Mount Horeb.

WITHDRAWAL

Executive nomination withdrawn from the Senate January 26 (legislative day of January 24), 1944:

POSTMASTER

MISSISSIPPI

John W. Lunday, Jr., to be postmaster at Biloxi in the State of Mississippi.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JANUARY 26, 1944

The House met at 12 o'clock noon, and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Father of infinite love, we pray for the mind and heart that cheerfully accepts the eternal truth that Thy presence is in this world; O save it from the goading fears which hover about it. When we think of war, its unspeakable sorrows mock us; when at the bedside of its innocent victims, it taunts us; and when we put away in helpless mercy its slain, it stares at us. O give us more power and grace to contend valiantly against such an appalling evil born of the selfish pride and conquest of wicked men.

We pray for our children with their trustful hearts and open gaze; O God, enable us to maintain those institutions that shall bestow upon them the blessings of free and democratic government. Mercifully remember all who are toiling through the watchful, unrewarding years and keep our land free from the subtleties, the inertia, and from the ambitions of unpatriotic men. Let us be deeply conscious not only of our own needs but of the needs of others, as joy and growth are the fruits of serving and giving. We pray for the stability of character and for the repose of mind that teach us how to do Thy will on earth as it is done in heaven. O God, we are facing an anguished world with engaging and momentous problems at home.

We beseech Thy guidance and direction to be with our President, our Speaker, the leaders, and the Members, that all things may be done according to the precepts of wisdom and understanding. In the name of Christ, our Saviour. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Miller, one of his secretaries.

PERMISSION TO ADDRESS THE HOUSE

Mr. BURDICK. Mr. Speaker, I ask unanimous consent that on tomorrow after disposition of all business on the Speaker's desk and at the conclusion of any special orders heretofore entered, I may be permitted to address the House for 30 minutes.

The SPEAKER. Is there objection to the request of the gentleman from North Dakota [Mr. BURDICK]?

There was no objection.